

California Department of Corrections

**Armstrong v. Davis
Board of Prison Terms
Parole Proceedings**



Remedial Plan

January 4, 2002

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Armstrong v. Davis Board of Prison Terms Parole Proceedings Remedial Plan

I. POLICY

It is the policy of the California Department of Corrections (CDC) and the Board of Prison Terms (BPT) to provide equal access to all parole proceedings to inmates/parolees with disabilities, with or without reasonable accommodation, consistent with legitimate penological interests. Access to parole proceedings shall be consistent with terms outlined in the *Armstrong v. Davis* Court Ordered Remedial Plan Amended January 3, 2001, the *Clark v. California* Remedial Plan Amended December 3, 2001, and the Board of Prison Terms Policies and Procedures filed with the Court pursuant to *Armstrong v. Davis* Permanent Injunction of December 23, 1999.

No qualified inmate or parolee with a disability as defined in Title 42 of the United States Code, Section 12102 shall, because of that disability, be excluded from equal and effective participation, to the best of their ability, in BPT hearings.

II. PURPOSE

Pursuant to the *Armstrong v. Davis* Injunction, CDC is mandated to carry out the role of processing inmates/parolees for BPT parole proceedings. It is the purpose of this Remedial Plan to establish procedures for the implementation of the Injunction.

III. SCOPE

The policy contained within this *Armstrong v. Davis* Board of Prison Terms Parole Proceedings Remedial Plan specifically applies to BPT ***parole proceedings***. Parole proceedings by definition include: Service of Hearing Rights, Screening Offers, Revocation Hearings, Revocation Extension Hearings, Life Prisoner Hearings (Documentation Hearings, Initial Parole Consideration Hearings, Subsequent Parole Consideration Hearings, Progress Hearings, Rescission Hearings and In Re Stanworth Hearings), Mentally Disordered Offender (MDO) Hearings, and Sexually Violent Predator (SVP) Hearings. Parole proceedings also include any event related to the hearing that occurs before or after the hearing, including preparations for the hearing, psychiatric evaluations, Central File (C-File) reviews, obtaining letters of support, developing lifer parole plans, and administrative reviews. The Remedial Plan applies to all of the Department's institutions, parole facilities, and to all inmates/parolees who have disabilities under the Americans with Disabilities Act (ADA) whether or not the disability impacts placement.

The CDC will make all reasonable efforts to secure the funding necessary to implement the provisions of this Remedial Plan. During the first year of the implementation process, CDC may modify the Remedial Plan to provide a more effective remedy. However, CDC is required to notice Plaintiffs' counsel regarding any changes to this Remedial Plan.

The CDC will reevaluate this Remedial Plan in one year following implementation to determine whether there are adequate staff resources to effectively provide the services required by this Plan. The CDC will make reasonable and good faith efforts to obtain additional funding through the existing State budget approval process, if necessary.

IV. RIGHT TO A REASONABLE ACCOMMODATION

All inmates/parolees who have a disability under the ADA have the right to a reasonable accommodation at a BPT parole proceeding, as defined in Section III of this Remedial Plan. The CDC and BPT staff are responsible to ensure that: (1) the inmate/parolee is made aware of this right and informed how to request a reasonable accommodation, and (2) that the inmate/parolee has equal access to all parole proceedings.

The BPT Form 1073, Notice and Request for Reasonable Accommodation, provides written notice to the BPT ADA Coordinator of an inmate's/parolee's need and/or request for reasonable accommodation related to a documented or claimed disability for a parole proceeding. A BPT Form 1073 shall be completed or updated at the initial parole proceeding contact for every inmate/parolee, whether or not he/she has a disability.

The CDC and BPT share responsibilities in various parole proceedings, which have significantly different processes. As such, the requirements of both CDC and BPT staff vary in responsibility depending on the type of proceeding. To ensure this plan is appropriately implemented and adhered to, it has been organized to separately identify the processes in both the institution and the parole arenas as they relate to the various parole proceedings (defined in Section III of this Remedial Plan).

V. IDENTIFICATION

The CDC staff will identify, through completion of the BPT Form 1073, Notice and Request for Reasonable Accommodation, those inmates/parolees who require and/or request a reasonable accommodation at a parole proceeding. Completion of the BPT Form 1073 includes a review of all documents in the C-File which may identify a potential disability or need for an accommodation and an interview with the inmate/parolee.

All inmates received and parolees returned to CDC are screened and evaluated for disabilities, as well as medical and mental health needs during their Reception Center (RC) processing. In addition, the evaluation process is ongoing at mainline institutions. Documentation of these screenings/evaluations is contained in the inmate's/parolee's C-File. Therefore, the review of the file will assist the staff in identifying inmates with a potential need for a reasonable accommodation.

Most recent pertinent source documents that may provide information for identifying inmates/parolees with disabilities include the following:

- ▶ **BPT Form 1073** Notice and Request for Reasonable Accommodation
Identifies an inmate's/parolee's need and/or request for a reasonable accommodation at a parole proceeding.
- ▶ **CDC Form 128B** Chrono-General
May be used to document results of the Test of Adult Basic Education (TABE)¹ Complete Battery Reading Score or the Grade Point Level (GPL), which identifies inmates/parolees who have tested at a reading level of 4.0 or lower.
- ▶ **CDC Form 128C** Chrono-Medical-Psychiatric-Dental
Documents special concerns such as mental/physical limitations and/or health care needs related to the inmate's/parolee's disability. Documents the inmate's/parolee's level of care in the Mental Health Services Delivery System (MHSDS).
- ▶ **CDC Form 128C-1
or
CDC Form 128C-1A** Chrono-Reception Center Medical Clearance/Restriction Information
Addresses special medical/dental/psychological condition(s) identified while in the RC.
- ▶ **CDC Form 128C-2** Chrono-Recommendation for Adaptive Support
Identifies inmate's/parolee's cognitive functioning level and, if necessary, the level of adaptive services required under the Clark Remedial Plan.
- ▶ **CDC Form 1845** Inmate/Parolee Disability Verification
Establishes whether an inmate/parolee has a physical disability. It is limited to mobility, vision, hearing and speech disabilities, and medical conditions so severe as to impact a major life activity.
- ▶ **Other** Any other documentation in the C-File that verifies a learning disability.

¹The CDC is in the process of developing a form to record the TABE score results and/or identify possible learning disabilities. The TABE reading score of four or less means the Complete Battery as a specific type of test being used as described in the TABE Examiner's Manual. The 4.0 grade-range equivalent, as described in the manual, leaves less room for interpretation as to what "four" means. When "TABE reading score of four or less" is used, the meaning therefore is: the TABE Complete Battery reading score of four (4.0) grade-range equivalent or less.

VI. ACCOMMODATIONS

A. ACCESS

Equal access to BPT parole proceedings shall be made available to inmates/parolees with qualified disabilities, which include, but are not limited to, the following:

- Verified physical disabilities, whether or not the disability impacts placement consistent with the Disability Placement Program (DPP).
- Identified developmental disabilities consistent with the Developmental Disability Program (DDP).
- Mental health needs, which require participation in the MHSDS, regardless of the level of care.
- Learning disability. While CDC is not required to verify learning disabilities, CDC does recognize documentation in the C-File that verifies a learning disability.
- In addition, a reading score of 4.0 or lower may be reflective of a learning disability.

Equal access shall be achieved by use of accommodations such as auxiliary aids, sign language interpreter, staff assistance, or specially trained attorneys. For inmates/parolees with mobility and vision impairments, the CDC and BPT will ensure the hearing sites are accessible.

B. EFFECTIVE COMMUNICATION

Reasonable accommodation for effective communication shall be afforded inmates/parolees with disabilities, e.g., vision, speech, hearing, developmentally disabled, and learning disabled inmates. Auxiliary aids, which are reasonable, effective, and appropriate to the needs of the inmate/parolee, shall be provided when simple written or oral communication is not effective.

The standard for equally effective communication is higher when involved in a due process parole proceeding. It is the responsibility of CDC and BPT staff to provide effective communication under these circumstances to qualified disabled inmates/parolees. The degree of accommodation that is required under these circumstances shall be determined on a case-by-case basis in keeping with the inmate's/parolee's needs.

If the staff member is required to use an alternate method of communication, including simple English, to effectively communicate with the inmate/parolee, he/she shall document on the related form (e.g., BPT Form 1073, CDC Form 128B documenting an Olson Review, etc.) how he/she communicated with the inmate.

C. ATTORNEY ASSISTANCE

I. REVOCATION AND REVOCATION EXTENSION PROCEEDINGS

The BPT will provide all inmates/parolees in the following verified categories an attorney for all Revocation and Revocation Extension Proceedings.

a) MANDATORY ATTORNEY CASES

Inmates/parolees included in the following categories shall be assigned an attorney at Screening Calendar and **shall not be allowed to waive** such representation. For inmates/parolees in these categories, it is not necessary for them to establish a presumption of need as provided in California Code of Regulations (CCR), Title 15, Section 2693, or to request the assistance of an attorney:

- All inmates presently receiving treatment at the Department of Mental Health (DMH), Enhanced Outpatient Program (EOP), or Mental Health Crisis Bed (MHCB), level of care in the MHSDS.
- All parolees presently suffering from a mental disorder which would require treatment at the DMH, EOP, or MHCB level of care in CDC's MHSDS.
- All inmates/parolees who have been identified by CDC as being included in the DDP.

b) PRESUMPTIVE ATTORNEY CASES

Inmates/parolees in the following categories will be presumed to need an attorney, unless documentation or other information indicates an attorney is not needed. The determination will be made by the Board Coordinating Parole Agent (BCPA), responsible for conducting an attorney determination, subject to review by a Deputy Commissioner (DC). These inmates/parolees will be allowed to waive representation if it is determined that they are able to make a knowing, voluntary, and intelligent waiver. Any determination contrary to available disability documentation must be explained (e.g., TABE Reading Score of 3.8 but inmate/parolee able to comprehend violation report and speak for himself/herself):

- All inmates who are participating in the Correctional Clinical Case Management System (CCCMS) level of care in the MHSDS.
- All parolees who are presently suffering from a mental disorder which would require treatment at the CCCMS level of care in the CDC's MHSDS.
- All inmates/parolees who have a TABE Reading Score of 4.0 or less, **or** a GPL of fourth grade or lower, if no reading score is available.

- All inmates/parolees who are blind/vision impaired whose vision is not correctable to central visual acuity of 20/200 or better with corrective lenses, large print, or similar accommodation.
- All inmates/parolees who are deaf or so severely hearing impaired that they must rely on written communication, lip-reading, or sign language to communicate because their residual hearing, with aids, will not enable them to communicate effectively.
- All inmates/parolees who have a speech impairment, such as difficult speech or no speech which prevents them from communicating effectively using spoken language.

Inmates/parolees who do not meet the above criteria may continue to request an attorney; however, the inmate/parolee is responsible to establish a presumption of need pursuant to current policy.

2. OTHER PROCEEDINGS

The BPT will continue to provide attorneys to inmates during Life Prisoner Hearings wherein the inmate is being considered for parole consistent with the above criteria for mandatory and presumptive attorney assignments. These include Initial, Subsequent, and Rescission Parole Consideration Hearings.

Persons in the Mandatory Attorney Cases category shall not be allowed to waive representation of counsel at parole consideration hearings and rescission hearings for life prisoners. Consistent with existing policy, persons subject to Board hearings conducted pursuant to the MDO and SVP laws shall not be allowed to waive representation of counsel.

Attorneys are not currently assigned for Documentation Hearings, Progress, In Re Stanworth Hearings or three-year reviews of a Five-Year Denial. This will not change. However, when requested by the BPT, the CDC will assign a staff assistant to assist the inmate during these hearings.

D. AUXILIARY AIDS/EQUIPMENT

The following are accommodations identified for specific disabilities. This is merely a guide and is not all-inclusive as to the means by which a disabled inmate/parolee can be accommodated. **In deciding what accommodation to provide, primary consideration should be given to the method requested by the inmate/parolee.**

1. MOBILITY IMPAIRMENTS

The BPT ADA Coordinator, working in conjunction with the Classification and Parole Representative (C&PR), Reception Center Correctional Counselor III (RC CC-III), and/or Regional Hearing Coordinator (RHC), is responsible to ensure that parole

proceedings are held in an accessible CDC facility. The BPT ADA Coordinator is responsible to ensure that parole proceedings in non-CDC facilities are accessible.

2. HEARING IMPAIRMENTS

The auxiliary aid or service necessary to ensure effective communication with a hearing impaired inmate/parolee will depend on the degree of the hearing impairment.

For hearing impaired inmates/parolees whose primary communication method is by sign language, BPT will provide a qualified sign language interpreter via a cooperative effort with the C&PR/RC CC-III/RHC. **Neither CDC nor BPT personnel shall serve as sign language interpreters in parole proceedings.**

For hearing impaired inmates/parolees who do not understand sign language, written notes may be the appropriate method of communicating. In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee. An inmate's/parolee's ability to lip-read shall not be the sole source used as a means of effective communication in parole proceedings, unless the inmate/parolee has no other means of communication, or it is the inmate's/parolee's preferred means of communication. If written notes are used by staff to assist in effective communication, they shall be attached to the related document. When staff are required to use an alternate method of communication to effectively communicate with the inmate/parolee, they shall document the method used on the related form applicable to the particular hearing (e.g., screening offer).

In instances where lip-reading is the only communication method available, an attorney shall be provided to represent the inmate/parolee at the hearing in order to ensure that the inmate's/parolee's due process rights are protected.

Videoconferencing is an acceptable means of providing qualified sign language interpretive services as an alternative to an on-site sign language interpreter. In order for videoconferencing to be an acceptable alternative, the sign language interpreter and inmate/parolee must confirm that the arrangement allows for effective communication. The videoconference shall be conducted so that both signing speakers are clearly able to see the motions of the arms and fingers as well as facial expressions.

The following auxiliary aids and services may be made available for inmates/parolees with hearing impairments to ensure effective communication to the best of his/her ability:

- Assistive listening devices
- Computer terminals
- Real time captioning
- Sign language interpreters
- Telecommunication Device for the Deaf (TDD) machines

3. VISION IMPAIRMENTS

Vision impairments range from partial loss to total loss of vision. The auxiliary aid or service necessary for the inmate/parolee will depend on the degree of vision impairment. In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee.

The following auxiliary aids and services may be made available for inmates/parolees with vision impairments to ensure effective communication to the best of his/her ability:

- Audio-tape
- Braille
- Electronic equipment (reading machines)
- Large print
- Magnifying devices
- Qualified Reader
- Staff assistance

4. SPEECH IMPAIRMENTS

Speech impairments range from mild to severe and are characterized by stuttering and/or difficulty in producing sounds and/or difficulty in producing or understanding language.

The following auxiliary aids may be available to speech impaired inmates/parolees to ensure participation in parole proceedings to the best of the individual's ability:

- Communication books or boards
- Computer terminals
- Speech synthesizers
- TDD machines

5. MENTAL/PSYCHOLOGICAL/DEVELOPMENTAL DISORDERS

Qualified individuals with mental, psychological, or developmental disabilities may require one or more of the following accommodations:

- *ADA trained attorney
- Forms revised into simple English
- Impartial advocates (Regional Centers)
- Qualified sign language interpreters
- Staff assistance
- Staff clinicians

*Section VI, C, identifies the criteria for mandatory and presumptive attorney assignments.

Effective communication with inmates/parolees with mental/psychological disorders may require using basic communication skills in a patient, respectful, and dignified manner, avoiding complex words or complicated concepts.

6. LEARNING DISABILITIES

A learning disability is a lifelong disorder in one or more basic psychological processes involved in understanding or using language. It may interfere with one's ability to listen, think, speak, read, write, spell, or do mathematical calculations. School based definitions may specify a significant discrepancy between the individual's intelligence and his/her academic achievement.

The following accommodations may be available to inmates/parolees with learning disabilities to ensure equal participation in any parole proceedings to the best of the individual's ability:

- ADA trained attorney
- Additional time
- Audio taped materials
- Electronic equipment
- Highlighter pens and markers
- Staff Assistance

Effective communication with inmates/parolees with learning disabilities may require using basic communication skills in a patient, respectful, and dignified manner, avoiding complex words or complicated concepts.

The Correctional Counselor I (CC-I), District Hearing Agent (DHA), and/or BCPA shall give special attention to ensure inmates/parolees with a reading score of 4.0 or less understand written communications related to due process or psychiatric consultations in preparation for parole proceedings.

In the event an inmate/parolee with a reading score of 4.0 or less cannot read and comprehend documents in parole proceedings and has not been assigned an attorney or waived appointment of an attorney, staff shall provide reasonable accommodations to ensure effective communication (e.g., staff assistance, electronic readers, and sign language interpreter, etc.).

VII. COORDINATION OF SERVICES AND ACCOMMODATIONS

The CDC and BPT shall ensure that inmates/parolees with disabilities have equal access to parole proceedings with or without reasonable accommodations. Maintaining, providing and coordinating the reasonable accommodations noted herein are the responsibility of the following:

A. BPT ADA COMPLIANCE UNIT

The responsibilities of the BPT ADA Compliance Unit (ADACU), as they relate to this Remedial Plan, include the following:

1. Maintain a list of sources that have auxiliary aids that are available on short notice.
2. Maintain the assistive listening devices, magnifying devices, and TDDs at BPT Headquarters that are available upon request.
3. Ensure auxiliary aids and/or needed equipment are forwarded by overnight mail to the appropriate RHC or C&PR/RC CC-III.
4. Maintain a system to track the type of equipment requested and the location of the auxiliary aids/equipment.
5. Test auxiliary aids and equipment regularly to ensure it is operable. The ADACU will make all efforts to avoid postponements of parole proceedings due to maintenance or repair of equipment.
6. Maintain a supply of BPT forms in the following alternative formats:
 - ☐ Audio-cassettes
 - ☐ Braille
 - ☐ Large print
 - ☐ Simple English
7. Review and make determinations on requests for reasonable accommodations via the BPT Form 1073(a).
8. Maintain a tracking system of requests for reasonable accommodation and the accommodation provided.
9. Ensure that parole proceedings are held in locations that are physically accessible to inmates/parolees with mobility and/or vision impairments.

B. BPT SCHEDULING UNIT

The BPT Scheduling Unit shall coordinate the hiring of communication services for BPT proceedings. Communication services will be provided through a professional agency that provides the services necessary to ensure effective communication with deaf, hard of hearing, or deaf-blind people.

Communication services provided by the BPT may include:

1. **REAL TIME CAPTIONING:** This service provides simultaneous written text of spoken language either on a computer screen or overhead projector by professional court reporters.

2. **SIGN LANGUAGE:** A “qualified sign language interpreter” is a person who is able to sign to the individual who is deaf what is being said, and who can voice what is being signed by the individual who is deaf. This communication must be conveyed effectively, accurately, and impartially, through the use of any specialized vocabulary. The requirement of “impartial” interpreting services means that the sign language interpreter must not have a personal relationship with the individual with a disability or otherwise be biased for or against that person.
3. **ORAL:** This service involves transliteration and interpretation by use of facial expression, lip/mouth movement, and hand gestures, for deaf and hard-of-hearing individuals who do not rely on sign language for communication.
4. **TACTILE:** This service is a form of sign language interpretation specifically for deaf-blind individuals.
5. **INTERMEDIARY INTERPRETING:** An intermediary interpreter may be needed when the communication mode of a deaf person is so unique that interpreters who are not deaf cannot adequately access it. A deaf intermediary with specialized communication skills communicates using the unique method with the inmate/parolee and signs to the hearing interpreter, who then voices what has been signed.

Neither BPT nor CDC staff shall be used in lieu of a professional communications agency to provide the services noted above.

C. INSTITUTIONS

1. The DHA/CCI/BCPA shall identify the reasonable accommodation needs of the inmate/parolee.
2. The C&PR/RC CC-III shall coordinate with the BPT ADA Coordinator to ensure the services and/or equipment deemed appropriate to reasonably accommodate a disabled inmate/parolee at a parole proceeding is provided.
3. If the CDC institution/facility does not have the recommended equipment, the C&PR/RC CC-III shall immediately notify the BPT ADA Coordinator. The BPT ADA Coordinator will ensure the requested equipment is provided, or provide another equally effective means that will accommodate the inmate/parolee and ensure his/her access and/or effective communication at the parole proceeding.

VIII. BPT FORM 1073 - NOTICE AND REQUEST FOR REASONABLE ACCOMMODATION

A revised BPT Form 1073, Notice and Request for Reasonable Accommodation, is included in this Remedial Plan. The following are instructions on how to complete the form. These instructions are also contained on the back of the original BPT Form 1073 for easy reference.

A. SECTION I: PRE-INTERVIEW FILE REVIEW (STAFF ONLY)

1. To initiate the document, the C&PR/RC CC-III/RHC shall write the inmate's/parolee's name, CDC number, the type of parole proceeding, and the institution/region where the inmate/parolee is located at the bottom of the form.
2. A file review is required for Section I in order to obtain documents that may verify a disability and/or potential need for a reasonable accommodation at the parole proceeding.

In a Parole Revocation or Parole Revocation Extension case at an institution, the C&PR/RC CC-III shall ensure the review of the inmate's/parolee's central file is conducted and all documents that either verify or disclaim a disability are included in the revocation packet prior to its submission to a DC. For Parole and Community Services Division (P&CSD) proceedings, the RHC shall ensure review of the revocation packet is conducted prior to providing it to the DC for screening. The RHC shall ensure that documents that either verify or disclaim a disability are included in the revocation packet prior to its submission to a DC.

3. The appropriate boxes shall be checked for items that identify a disability.
4. If no documents exist, institution staff shall check the box indicating there are "no verifying documents in file." Parole staff shall provide whatever documentation they have available that indicates there is no information in the C-File that indicates a disability.
5. The documents that identified a disability shall be copied and attached to the BPT Form 1073. (Documents that do not indicate a disability should not be attached to the form.)

In parole proceedings related to Life Prisoners, the CC-I shall complete Steps 1 through 5 above, in addition to the Assessment of the File Review, and Sections II and III of the BPT Form 1073 described below.

ASSESSMENT OF FILE REVIEW

1. In Revocation/Revocation Extension cases, if the DC decides to assign an attorney at the initial screening, Section II of the BPT Form 1073 will be completed with the inmate by the BCPA. Section III, however, will not be completed, as the BCPA will provide similar information on a BPT Form 1073(b), which documents his/her assessment of the inmate's needs for reasonable accommodation under the ADA.
2. If the file review reflects that the inmate/parolee meets a criterion that requires the assistance of a BPT assigned sign language interpreter, the C&PR/RC CC-III/RHC will fax the BPT Form 1073 to the BPT ADA Coordinator. The BPT ADA Coordinator will document the decision on a BPT Form 1073(a). Upon assignment, the C&PR/RC CC-III/RHC or designee shall give the date and time of the appointment and the documents to the CC-I/DHA for service and completion of Sections II and III.

3. If the file review reflects that the inmate/parolee requires an auxiliary aid to effectively communicate during the Service in the Revocation/Revocation Extension process, the C&PR/RC CC-III/RHC/BCPA shall ensure that the appropriate accommodation is available prior to the CC-I/DHA/BCPA meeting with the inmate/parolee. If the accommodation is not available, the C&PR/RC CC-III/RHC shall contact the BPT ADA Coordinator to request the accommodation.

B. SECTION II: PRISONER/PAROLEE RIGHTS & SELF IDENTIFICATION

1. The CC-I/DHA shall read the ADA statement at the beginning of Section II verbatim to every inmate/parolee possessing the physical ability to hear, regardless of the type of parole proceeding. The CC-I/DHA shall advise the inmate/parolee of and explain the meaning of the upcoming parole proceeding.
2. The CC-I/DHA shall explain to the inmate that BPT documents are available in alternative formats upon request (e.g., Braille, large print, audiocassette, or simple English).
3. The second portion of this section is for the inmate/parolee to complete by declaring whether he/she has a disability. If the inmate/parolee is unable to complete this section, the CC-I/DHA shall provide assistance by recording the responses given by the inmate/parolee. The CC-I/DHA will record this accommodation in Section III, under comments.

C. SECTION III: INITIAL SERVICE OF RIGHTS (STAFF ONLY)

1. The CC-I/DHA shall document his/her observations and assessments in this section. If an alternate method of communication was used to effectively communicate with the inmate/parolee, the CC-I/DHA shall check the box provided and indicate the method used.
2. The CC-I/DHA will check the appropriate box on the form indicating whether the inmate/parolee appears to understand the reason for the parole proceeding and his/her rights under the ADA. If the inmate appears to have difficulty understanding, the CC-I/DHA shall restate the information using simple English. The CC-I/DHA shall then ask the inmate/parolee to explain in his/her own words the following: 1) his/her rights under ADA; 2) his/her rights regarding the proceeding; 3) the nature of the proceeding; and, 4) the reason for the violation/in-custody report (except in Life, SVP, or MDO cases). If the inmate/parolee appears to understand, the CC-I/DHA shall complete Section III indicating simple English was used under "effective communication method used," and return the BPT Form 1073 to the C&PR/RC CC-III/RHC.
3. If the inmate/parolee is unable to effectively communicate this information, the CC-I/DHA shall document his/her efforts on the BPT Form 1073 as follows:
 - Check the box "appears to have difficulty understanding."

- Check the box "Effective Communication Method Used" and write in "Simple English" and any other methods used.
 - Write in the Comments section that the inmate/parolee was asked to explain in his/her own words their rights regarding ADA and the parole proceeding, the nature of the parole proceeding, the reason for the violation/in-custody report (except in Life, SVP, or MDO cases), and that the inmate/parolee was unable to do so. The CC-I/DHA should write that they were unable to achieve effective communication with the inmate/parolee. The CC-I/DHA should also write any other observations they feel are pertinent.
 - The CC-I/DHA shall return the BPT Form 1073 to the C&PR/RC CC-III/RHC. The C&PR/RC CC-III/RHC shall ensure the form is completed properly and advise the BPT ADA Coordinator immediately via fax and telephone contact.
 - The CC-I shall complete a CDC Form 128B referral chrono noting his/her observations and forward it to the Psychiatric Department for evaluation and possible inclusion in the DDP.
 - The BPT ADA Coordinator will make a determination as to whether to assign an attorney at that juncture or have a BCPA make a secondary assessment prior to assigning an attorney. If the BPT determines that attorney assignment is necessary based upon the inmate's/parolee's inability to understand or speak for himself or herself at the due process proceeding, that fact shall be documented on the BPT Form 1073(a) or BPT Form 1073(b), whichever is appropriate. At the inmate's/parolee's next parole proceeding, the prior documentation will be submitted with the revocation/revocation extension packet and the inmate will be assigned an attorney at the initial screening process.
4. If an accommodation is not requested by the inmate, but based on the CC-I/DHA's observations an accommodation is recommended, the CC-I/DHA shall note the recommendation in the Comments section.

D. SECTION IV: REVIEW INDICATING NO CHANGES

1. After the initial completion of the BPT Form 1073, this section may be completed by staff when an inmate/parolee is involved in a subsequent parole proceeding and only when there have been no changes to the information on the form.
2. Completion of this section requires a file review by the appropriate staff, as described above, to assess whether any changes in the inmate's/parolee's disability information has occurred.
3. If there are no changes in the information, the staff member shall update the BPT Form 1073 by entering the type of hearing; printing his/her first initial, last name, and written initials; title; location; and the date the form is being updated.

4. If an inmate/parolee has made a prior request for an accommodation on the BPT Form 1073, or if the inmate has not been in continuous custody, an interview shall be conducted by the DHA/CC-I to determine whether the accommodation request is still effective. If the inmate/parolee indicates a change in the accommodation requested, a new BPT Form 1073 shall be completed.
5. Most current copies of the required documentation shall be attached to the form.
6. The updated BPT Form 1073 and accompanying copies can then be processed as otherwise required for the parole proceeding.
7. Section IV shall not be used when the file review indicates a change on the prior BPT Form 1073.
8. Staff shall initiate a new BPT Form 1073 when the available update boxes have been filled.

E. DISTRIBUTION OF THE BPT FORM 1073

Upon completion of the BPT Form 1073, distribution shall be completed as follows:

1. The **original** BPT Form 1073 shall be filed in the BPT Section of the inmate's/parolee's C-File.
2. The **second page** shall be provided to the BPT ADA Coordinator.
3. The **third page** will be forwarded by the Revocation Unit (RU) to the parole unit for placement in the parolee's field file upon completion of the revocation process. For institution parole proceedings, this page may be discarded.
4. The **fourth page** shall be provided to the inmate/parolee by the staff member conducting the interview, upon its completion.
5. When Section IV of the form is used, copies shall be made and distributed as indicated above.
6. For revocation/revocation extension cases where an accommodation is being requested, the BCPA shall fax the BPT Form 1073 and the BPT Form 1073(b) with supporting documents to the BPT ADACU.
7. For revocation/revocation extension cases where an accommodation is not being requested, the BCPA shall mail the BPT Form 1073 and the BPT Form 1073(b) with supporting documents to the BPT ADACU.
8. For Life Prisoner, MDO, and SVP cases where an accommodation is being requested, the C&PR/RC CC-III shall fax the BPT Form 1073 with supporting documents to the BPT ADACU at (916) 324-7603.

9. For Life Prisoner, MDO, and SVP cases where an accommodation is not being requested, the C&PR/RC CC-III shall mail the BPT Form 1073 with supporting documents to the BPT ADACU on a weekly basis to Board of Prison Terms, Attention: BPT ADACU, 1515 K Street, Suite 600, Sacramento, CA 95814.

IX. INSTITUTIONS – PAROLE PROCEEDINGS

The C&PR, RC CC-III, and the CC-I within the institutions are the essential personnel relative to ensuring the implementation of this Remedial Plan. Responsibilities for CDC staff and procedures related to parole proceedings (as defined in Section III of this Plan) within the institutions are set forth below.

A. REVOCATION EXTENSION HEARINGS

The CDC schedules institution revocation and Revocation Extension Hearings with the BPT Central Office Calendar.

1. INITIAL SCREENING PROCESS

- a) The C&PR/RC CC-III is responsible for preparing a BPT Form 1135A, Report of In-custody Misconduct, for violations occurring within the institution.
- b) When completing the BPT Form 1135A, the C&PR/RC CC-III will review the inmate's/parolee's C-File and initiate a BPT Form 1073. The C&PR/RC CC-III, or designee, shall be responsible for completing Section I, including attaching the relevant documents. Completion of the BPT Form 1073 shall be consistent with the instructions in Section VIII of this Remedial Plan. These instructions are also located on the back of the form for easy reference.
- c) The C&PR/RC CC-III shall ensure Section I of the BPT Form 1073 is completed thoroughly and accurately and that all disability related documents are attached (e.g., CDC Forms 1845, 128B, 128C, 128C-1, and/or 128C-2).
- d) The BPT Form 1073 will accompany the BPT Form 1135A and other related documents that are faxed to the BPT Central Office Calendar, or presented to a DC at institutions, for screening. The BPT will retain these documents on file or in a database for grievance purposes.
- e) Following review of the screening documents and the BPT Form 1073, BPT staff will fax the BPT Form 1104 to the C&PR/RC CC-III to advise him/her of the DC's decision.
- f) If an attorney is assigned via the BPT Form 1104, the case will be processed by a BCPA and will not require Service by a CC-I.
- g) If a DC screens a revocation packet at the institution and determines that an attorney will be assigned, the C&PR/RC CC-III will fax the revocation extension packet,

including the BPT Form 1104, to the Central Office Calendar notifying the BPT of an attorney case and need for BCPA Review.

h) If an attorney is not assigned, a CC-I will conduct the Service.

2. PROCESS WHEN ATTORNEY IS ASSIGNED

- a)* If an attorney is assigned at the time of screening, the BPT shall be responsible for preparing and delivering the packets to the attorney and the BCPA. The BCPA will complete the entire Service process.
- b)* Upon receipt of a revocation packet, the BCPA will note the due date of the BPT Form 1104(b) and complete the Service and Due Process Review (BCPA Review) as soon as possible, but not later than five calendar days following the Central Office Calendar action. It is the responsibility of the BCPA to coordinate with the C&PR/RC CC-III the date and time of the Serve at least two working days prior to their arrival. This will allow sufficient time to ducat the inmate/parolee for the BCPA Review.
- c)* Following Service by the BCPA, the attorney will be given 10 working days from the date of the Central Office Calendar action to meet and consult with his/her client in preparation of the hearing, or to notify the BPT of the inmate's intent to accept the Screening Offer via the BPT Form 1104(b).
- d)* Following assignment of the attorney, the institution shall make the necessary arrangements for gate pass clearances, escorts, and inmate interviews consistent with their current policy.
- e)* After meeting with the inmate, the attorney will deliver the BPT Form 1104(b) to the C&PR/RC CC-III. Both the attorney and the inmate are required to sign and date the BPT Form 1104(b).
- f)* The C&PR/RC CC-III will fax the BPT Form 1104(b) to the assigned BCPA for completion of the revocation extension documents. The BCPA will fax the completed documents, including the BPT Form 1104, to the C&PR/RC CC-III for processing. The BCPA will mail the original documents to the C&PR/RC CC-III the same day they are faxed.
- g)* If the attorney requests an extension, the BCPA will fax a BPT Form 1104(c), Inmate/Parolee Waiver Form, to the attorney. The attorney will immediately sign the form, fax it back to the BCPA, and mail or deliver the original to the C&PR/RC CC-III for placement in the BPT section of the C-File.
- h)* If the BPT Form 1104(b) is not returned within the 10 working day period and a BPT Form 1104(c) is not received, the BCPA will complete the Service paperwork, indicating the case is to be scheduled for a hearing. On the 11th working day, the BCPA will request the C&PR/RC CC-III schedule a Revocation Extension Hearing.

- i)* Once the BCPA requests a hearing, the attorney will not be permitted to invoke acceptance of a Screening Offer without approval by an Associate Chief Deputy Commissioner (ACDC).
- j)* If the ACDC approves acceptance of a Screening Offer after the revocation extension documents have been completed by the BCPA, the ACDC shall instruct the attorney and inmate to document the acceptance on a BPT Form 1104(b) and deliver it to the C&PR/RC CC-III immediately. The C&PR/RC CC-III shall fax a copy of the BPT Form 1104(b) to the ACDC. The ACDC will complete a new BPT Form 1104, reflecting the change in decision for a hearing. The ACDC will fax a copy of the new BPT Form 1104 to the C&PR/RC CC-III, and mail the original. The C&PR/RC CC-III shall advise the Revocation Desk to cancel the hearing, if appropriate.
- k)* In cases where an attorney is determined by the BCPA to be necessary due to previously unidentified ADA issues, the BCPA will immediately notify the BPT ADA Coordinator of the need for an attorney. The BCPA will also be responsible for leaving the original BPT Forms 1073, 1073(b), and 1135A, as well as copies of the remaining documents in the revocation packet, with the C&PR/RC CC-III. After the BPT assigns an attorney, the BCPA will coordinate delivery of the attorney packet within 48 hours. The attorney will have 10 calendar days to meet with his/her client and determine whether to accept the Screening Offer or to proceed with a hearing. The remainder of the process will mirror that as outlined above, with the exception of the time frames being measured in calendar days from the date of the BCPA review.
- l)* In those cases where an attorney is determined by the BCPA to be necessary based upon the BPT Form 1083, Attorney Determination, the BCPA will notify the Revocation Desk of the need for attorney representation at the hearing. The BCPA will complete the revocation extension documents, indicating the case is to be scheduled for a hearing, and deliver the original revocation extension packet to the C&PR/RC CC-III for processing and scheduling of the hearing. The inmate will have the option of accepting the Screening Offer, provided the attorney notifies the C&PR/RC CC-III at least 10 calendar days prior to the scheduled hearing date. A decision to accept the Screening Offer shall be recorded by the attorney and inmate on a BPT Form 1104(b). Both the attorney and inmate must sign the BPT Form 1104(b).
- m)* When an attorney is assigned as a result of the BPT Form 1083, the attorney will deliver the BPT Form 1104(b) to the C&PR/RC CC-III. The C&PR/RC CC-III will fax the form to the Central Office Calendar for completion of a new BPT Form 1104 by a DC. The DC will complete and return the form via fax and mail the original on the same date.

3. PROCESS WHEN ATTORNEY IS NOT ASSIGNED

- a) If an attorney is not assigned at the time of screening, the institution Revocation Desk will prepare the revocation extension packet and submit it to the CC-I for Service. The packet will include the following documents:

Forms to be Completed and Returned to the Revocation Desk:

- BPT Form 1073 Notice and Request for Reasonable Accommodation
- BPT Form 1100(a) Notice of Right to Revocation Hearing-Acknowledgment

Forms to be Provided to the Inmate:

- BPT Form 1100 Notice of Right to Revocation Hearing
 - BPT Form 1100(b)-W Request for Witnesses Worksheet
 - BPT Form 1083-W Attorney Determination Worksheet
 - Copy of BPT Form 1104 Summary of Revocation Decision (include both pages)
 - Copy of CDC Form 115 Rules Violation Report **-or-**
 - Copy of CDC Form 804 Notice of Pending CDC Form 115
- b) The CC-I will complete the Service for the Revocation Extension proceeding for those inmates who are not initially assigned an attorney.
- c) The CC-I will advise the inmate of the reason for the parole proceeding (e.g., Screening Offer).
- d) For inmates who require the services of a sign language interpreter, the CC-I shall complete the Serve with the assistance of a sign language interpreter approved by the BPT.
- e) For inmates who require an auxiliary aid to effectively communicate (hearing or speech impaired), the C&PR/RC CC-III shall coordinate the reasonable accommodation prior to the interview with the inmate. If the auxiliary aid is not available, the C&PR/RC CC-III shall contact the BPT ADA Coordinator for the appropriate accommodation.
- f) If the CC-I determines, while completing the BPT Form 1073, that the inmate requires assignment of a sign language interpreter, the CC-I shall stop the Service, write his/her observation on the form, and deliver it to the C&PR/RC CC-III. The C&PR/RC CC-III shall immediately fax that information to the BPT ADA Coordinator. The BPT ADA Coordinator will document the decision on a BPT Form 1073(a) and fax it to the C&PR/RC CC-III. The C&PR/RC CC-III and the BPT ADA Coordinator will coordinate the services of a sign language interpreter. The C&PR/RC CC-III or designee shall give the date and time of the appointment and documents to the CC-I to complete the Service.

- g)* If during the completion of the BPT Form 1073, the inmate appears to have difficulty understanding, the CC-I shall make every effort to communicate with the inmate/parolee using simple English, or other reasonable accommodation which may assist in achieving effective communication. These efforts shall be documented in the Comments section. If the CC-I determines that the inmate, even with reasonable accommodations and using effective communication techniques, does not understand his/her rights, the CC-I shall document their observations and the method of attempted accommodation in the Comments section and return the BPT Form 1073 to the C&PR/RC CC-III. The C&PR/RC CC-III shall advise the BPT ADA Coordinator immediately via faxing the completed BPT Form 1073 and telephone contact to ensure it was received. On these rare occasions, the CC-I will not be required to proceed with the Service of Rights.
- h)* After completing the BPT Form 1073, the CC-I shall provide the inmate/parolee with the fourth (NCR) copy of the form and a copy of the BPT 1073(a), if applicable.
- i)* The CC-I shall:
- 1)* Provide Service of the Revocation Extension packet to the inmate/parolee.
 - 2)* Advise the inmate that the BPT documents are available in alternative formats.
 - 3)* Review the BPT Form 1100 with the inmate/parolee and ask if he/she has any questions regarding his/her rights.
 - 4)* Have the inmate/parolee initial Section A of BPT Form 1100(a) indicating he/she understands his/her rights.
 - 5)* Have the inmate/parolee initial Section B of BPT Form 1100(a) stating he/she received copies of BPT Forms 1073, 1100, and 1104, the CDC Form 115 and/or CDC Form 804, and any other related documents.
 - 6)* Advise the inmate that he/she has no less than 72 hours in which to make a decision of whether to accept the Screening Offer or reject it and request a hearing.
 - 7)* Have the inmate/parolee initial Section C of BPT Form 1100(a) stating he/she understands his/her rights regarding the 72 hours and his/her choices.
 - 8)* Advise the inmate/parolee that a BCPA will interview the inmate after the 72-hour period to obtain the inmate's decision and process the necessary paperwork.
 - 9)* Advise the inmate that if after the 72-hour period he/she decides to request a hearing, he/she should utilize the worksheets provided to request witnesses and/or an attorney and provide them to the BCPA.

- 10)* Have the inmate/parolee initial Section D of BPT Form 1100(a) stating he/she has received the worksheets and agrees to complete them, if able, prior to the arrival of the BCPA.
 - 11)* Have the inmate/parolee sign the bottom of the BPT Form 1100(a) and witness the inmate's/parolee's signature.
 - 12)* Ensure effective communication during the Serve, including the use of any auxiliary aides, as described in Section VI of this Remedial Plan.
- j)* The CC-I shall not:
- 1)* Accept a decision by an inmate regarding the Screening Offer.
 - 2)* Complete the Service for an inmate who has been provided an attorney at the initial screening by the BPT.
- k)* Upon completion of the Service, the CC-I will return the original BPT Forms 1073 and 1100(a) documents to the Revocation Desk.
- l)* Upon receiving the documents from the CC-I, the Revocation Desk staff shall:
- 1)* Maintain the original completed Revocation Packet at the institution/facility and provide it to the BCPA upon his/her arrival.
 - 2)* Provide a copy of the list of inmates/parolees who require a Due Process Review by a BCPA to the C&PR/RC CC-III. Within two working days, fax the list to the BPT. The list shall include their name, number, and required accommodation, if applicable. If the inmate/parolee has requested an accommodation, the BPT Form 1073 shall be forwarded with the list.
- m)* It is the responsibility of the BPT to assign a BCPA to complete a Review no sooner than 72 hours after the inmate is served with the Screening Offer to determine whether the offer is accepted or rejected. Service by the BCPA is to be provided for every inmate with or without a disability. This Service will also be provided to inmates in Camps and/or Community Correctional Facilities.
- n)* It is the responsibility of the BCPA to coordinate with the C&PR/RC CC-III the date and time of the BCPA Review at least two working days prior to their arrival. If a reasonable accommodation needs to be provided during the BCPA Review, it is the responsibility of the BPT ADA Coordinator to coordinate with the C&PR/RC CC-III/BCPA to ensure the accommodation is provided. For those inmates who require use of a sign language interpreter, the BCPA shall complete the Serve with the assistance of a sign language interpreter approved by the BPT.
- o)* The BCPA shall complete the BCPA Review within eight calendar days of the CC-I Serve. The BCPA will assist the inmate in completing the appropriate documents relative to the inmate's decision of whether to accept or reject the

Screening Offer. In addition, the BCPA will make determinations regarding the inmate's request for witnesses and/or an attorney.

- p)* During the interview with the inmate, the BCPA will complete a BPT Form 1073(b) documenting his/her assessment and, if necessary, how he/she effectively communicated with the inmate.
- q)* It is the responsibility of the BCPA to ask the inmate whether any of his/her requested witnesses has a disability and/or needs a sign language interpreter. This information will be noted on the BPT Form 1073(b) and faxed to the BPT ADA Coordinator.
- r)* Upon completion of the Review, the BCPA will return the Revocation Extension Packet and any other related documents, including the BPT Form 1073(b) to the C&PR/RC CC-III for further processing.
- s)* If the Screening Offer is accepted, the C&PR/RC CC-III will ensure the Revocation Extension packet documents are appropriately processed and distributed.
- t)* If the inmate requests a hearing, the C&PR/RC CC-III will ensure the appropriate documents are forwarded to the BPT Scheduling Unit to schedule the hearing. If the BCPA approved the inmate's request for an attorney or identified a need for a reasonable accommodation, this information will be forwarded to the BPT along with the other related documents. When requested by the BPT, the CDC will assign a staff assistant to assist the inmate during the hearing.
- u)* The C&PR/RC CC-III will be notified by the Revocation Desk of the hearing date and time. The C&PR/RC CC-III will ensure the inmate is advised by the CC-I of the hearing date and time at least four days prior via the BPT Form 1080 process.
- v)* The C&PR/RC CC-III will be responsible to provide the necessary reasonable accommodations to ensure the inmate's/parolee's access to the hearing. If the necessary reasonable accommodations are not available at the institution, the C&PR/RC CC-III will contact the BPT ADA Coordinator for the necessary accommodation.

All other functions not addressed in the above process shall remain the same, unless otherwise reflected herein.

B. REVOCATION HEARINGS

In most instances, when an inmate/parolee is in a CDC institution/facility for a Parole Revocation Hearing, he/she is in a RC and the DHA is responsible for the Parole Revocation process. The DHA responsibilities are delineated in Section XI of this plan under the functions of the P&CSD.

When an inmate/parolee is in a CDC institution/facility and refuses to sign conditions of parole, provide blood or saliva samples pursuant to PC Section 296, or register pursuant to PC Section 290, the subsequent parole proceeding is a Parole Revocation Hearing. In these

instances, and any others where an inmate/parolee is having a Parole Revocation Hearing that is not handled by a DHA, the CC-I shall complete the Service in accordance with the procedures as outlined for Revocation Extension Hearings in Section IX, A, 1, of this Remedial Plan.

C. LIFE PRISONER HEARINGS

The CDC coordinates the scheduling of Life Prisoner Hearings with the BPT Scheduling Unit.

1. BPT FORM 1073 AND RIGHTS PACKET PROCESS

- a)* The institution Lifer Desk will prepare the packet and submit it to the CC-I for Service. The packet will include the following documents.
 - BPT Form 1002 Life prisoner Notice of Hearing Rights
 - BPT Form 1003 Request for Attorney/Waiver of Attorney or Withdrawal Request
 - BPT Form 1073 Notice and Request for Reasonable Accommodation
 - BPT Form 1101(a) Extraordinary Action and Decision
- b)* Every inmate shall be served with a BPT Form 1073, Notice and Request for Reasonable Accommodation, prior to a Life Prisoner Hearing.
- c)* The Records Office will provide a copy of a BPT Form 1073 to the CC-I with the notice advising the CC-I that a Board Report is required on a life prisoner.
- d)* In instances where a psychiatric report is required, the CC-I shall complete the BPT Form 1073 within 10 working days.
- e)* When the CC-I reviews the C-file to prepare the Board Report, he/she shall initiate the BPT Form 1073 and complete Section I, as described in Section VIII of this Remedial Plan. This shall be done prior to interviewing the inmate or serving any hearing related documents.
- f)* If the C-file contains a prior BPT Form 1073, the CC-I may update that form, provided the criteria set forth in Section VIII of this Remedial Plan is met.
- g)* If the C-File review reveals a need for a sign language interpreter in order to effectively communicate with the inmate, the CC-I shall return the BPT Form 1073 to the C&PR. If the inmate requires the use of a sign language interpreter, the CC-I shall not proceed until a sign language interpreter is approved and provided by the BPT.
- h)* The C&PR will fax the BPT Form 1073 and all disability related documents, if applicable, to the BPT ADA Coordinator to coordinate the services of a sign language interpreter for contacts with the inmate during the preparation of the parole proceeding (e.g., Board Report interview, Olson Review, Service of Rights).

The BPT ADA Coordinator will document his/her approval/denial on a BPT Form 1073(a) and fax it to the C&PR/RC CC-III. The C&PR/RC CC-III and the BPT ADA Coordinator will coordinate the services of a sign language interpreter. The C&PR/RC CC-III or designee shall give the date and time of the appointment and documents to the CC-I so the CC-I can continue the Service. The CC-I is to complete Sections II and III of BPT Form 1073 with the inmate, as described in Section VIII of this Remedial Plan, prior to serving the inmate with his/her Life Prisoner Hearing Rights Packet.

- i)* If during the interview process, the CC-I recognizes that the inmate would benefit from the use of a sign language interpreter to effectively communicate, the CC-I shall not complete the Serve without the assistance of a BPT approved sign language interpreter. The CC-I shall write his/her observations on the BPT Form 1073 and return it to the C&PR. The C&PR shall follow the steps above to coordinate those services.
- j)* If the BPT Form 1073 indicated a request for a reasonable accommodation other than a sign language interpreter, the C&PR shall determine if the necessary accommodations are available at the institution by contacting the Institution ADA Coordinator. If the reasonable accommodation is not available, the C&PR shall fax the BPT Form 1073 to the BPT ADA Coordinator. The BPT ADA Coordinator will document his/her decision regarding the decision on a BPT Form 1073(a) and fax it to the C&PR/RC CC-III. The BPT ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate for completion of all parole proceedings, including the hearing.
- k)* Once the BPT has approved the use of a sign language interpreter, the C&PR/RC CC-III may contact the professional agency directly for all other subsequent contacts, e.g., psychiatric evaluation, developing lifer parole plans, Olson review, and any other contacts in preparation of the hearing.
- l)* Upon completing the Service, the CC-I shall return the packet to the C&PR. The C&PR shall review the BPT Form 1073 and assess whether notification needs to be made to the BPT ADA Coordinator to ensure that the necessary accommodation(s) are provided to the inmate during the hearing. The C&PR shall also provide a copy of the BPT Form 1073 and the BPT Form 1073(a), if applicable, to the clinician via the Chief Psychiatrist.
- m)* If the BPT Form 1073 indicates a request for a reasonable accommodation, the C&PR is responsible to provide the necessary accommodations to ensure the inmate has equal access to the Life Prisoner Hearing. If the reasonable accommodation is not available, the C&PR will contact the BPT ADA Coordinator for assistance in acquiring a reasonable accommodation and forward the BPT Form 1073 to the BPT ADA Coordinator.
- n)* The BPT ADA Coordinator will document his/her decision regarding the request on the BPT Form 1073(a) and coordinate the accommodation with the C&PR.

2. REASONABLE ACCOMMODATIONS

- a) Once it is determined through the BPT Form 1073 process that an inmate requires a reasonable accommodation to ensure effective communication, it is the responsibility of BPT or CDC staff to ensure that the accommodation is provided in all parole proceeding contacts. Parole proceeding contacts include, but are not limited to Service of Rights Packet, interview for Board Report, assistance with Lifer Parole Plans, review of Board Report, conducting an Olson Review, interview for Psychiatric Report, review of Psychiatric Report, and assistance with appeals relating to BPT decisions.
- b) Reasonable accommodations to ensure effective communication, as described below, can be for cognitive or physical disabilities. Regardless of the type of disability, if the inmate has been identified as requiring a reasonable accommodation to ensure effective communication, staff must ensure the following is adhered to:

- 1) If an inmate **requires the use of a sign language interpreter to effectively communicate**, the CC-I/Clinician shall interview the inmate regarding the parole proceeding with the assistance of a BPT approved sign language interpreter.

The CC-I/Clinician shall document on the related parole proceeding document, e.g., Service of Rights Packet, Board Report, CDC Form 128B for Olson Review, Psychiatric Report, etc., that the information was communicated via a sign language interpreter and the sign language interpreter acknowledged that the inmate appeared to understand the process to the best of his/her ability.

- 2) If an inmate **requires a reasonable accommodation to effectively communicate due to a cognitive disability**, the assigned CC-I/Clinician shall provide assistance during the Life Prisoner Hearing preparation process.

The CC-I/Clinician shall document on the related parole proceeding document, e.g., Service of Rights Packet, Board Report, CDC Form 128B for Olson Review, Psychiatric Report, etc., the type of assistance he/she provided to the inmate, e.g., reading, explained in simple English, etc., and if it appeared that the inmate understood the process to the best of his/her ability.

- 3) If an inmate **requires a reasonable accommodation to effectively communicate due to a physical disability** such as hearing, vision or speech impairment, the CC-I/Clinician shall ensure that the inmate has the accommodation during all parole proceeding contacts (as described above).

The CC-I/Clinician shall document on the related form that the reasonable accommodation was used, e.g., hearing aide, magnifier, written notes, etc., and whether the inmate appeared to understand the process to the best of his/her ability. If written notes are used to achieve effective communication, they must be attached to the related forms.

- 4) If the CC-I/Clinician believes that even with their assistance the inmate does not appear to understand the process, the CC-I/Clinician shall document that fact on the related forms and return them to the C&PR. The C&PR shall contact the BPT ADA Coordinator via telephone to advise him/her of the concerns regarding the inmate's ability to understand. The C&PR shall fax the BPT Form 1073 to the BPT ADA Coordinator during this process for review. The BPT ADA Coordinator shall advise the C&PR on the telephone how to proceed, as well as document his/her decision on a BPT Form 1073(a). The BPT Form 1073(a) shall be faxed to the C&PR and then mailed to the institution for inclusion in the C-File.
- 5) The BPT panel is responsible to effectively communicate with the inmate during the hearing. The hearing transcript shall reflect how effective communication was achieved. In addition, the BPT Commissioner chairing the hearing shall document how effective communication was achieved on the hearing results provided to the inmate. When requested by the BPT, the CDC will assign a staff assistant to assist the inmate during BPT hearings.
- 6) If the BPT Form 1073 indicates a need for an alternate method of communication to ensure effective communication with the inmate **and** the Life Prisoner Hearing requires a psychiatric evaluation, the C&PR shall forward a copy of the BPT Form 1073 to the clinician, via the Chief Psychiatrist.
- 7) If the BPT Form 1073 identifies a need for a reasonable accommodation to effectively communicate with the inmate, the clinician shall ensure the reasonable accommodation is provided at each contact with the inmate. If the reasonable accommodation is a sign language interpreter, the clinician is responsible to coordinate those services with the C&PR.
- 8) The Chief Psychiatrist will ensure the assigned clinician provides the inmate with a copy of his/her psychiatric report. In cases that require a reasonable accommodation to effectively communicate, the clinician will document how effective communication was achieved on the CDC Form 128B that the inmate signs to acknowledge receipt of the report. The clinician shall forward the completed CDC Form 128B to the Records Office.

3. ATTORNEY ASSISTANCE

- a) As described in Section VI, C, of this Remedial Plan, the BPT will continue to provide attorneys to inmates during Life Prisoner Hearings, including Initial, Subsequent, and Rescission Hearings. Currently, attorneys are not assigned for Documentation Hearings, Progress Hearings, In Re Stanworth Hearings, or three-year reviews of Five-Year Denials and this will not change. However, when requested by the BPT, the CDC will assign a staff assistant to assist the inmate during these hearings.
- b) Attorneys assigned to inmates with disabilities shall be required to complete ADA training.

- c) Section VI, C, delineates the inmates with disabilities who shall not be allowed to waive attorney representation when assigned.

4. BOARD REPORT

- a) At Life Prisoner parole consideration hearings, the BPT is responsible to ensure that inmates are not instructed by the Panel to participate in programs that are unavailable to them because of their disability.
- b) If the BPT, at the previous hearing, directed the inmate to participate in a program that was not available to the inmate due to his/her disability, the CC-I shall include in the current Board Report information regarding the type of disability the inmate has and how it may have affected the inmate's ability to participate in the recommended program.
- c) The C&PR shall ensure that this information is in the Life Prisoner Board Report for inmates with disabilities, when required.

5. PSYCHIATRIC REPORT

- a) When a psychiatric report is required for a Life Prisoner Hearing, the C&PR is responsible to ensure the Chief Psychiatrist is provided with a completed copy of the BPT Form 1073.
- b) The Chief Psychiatrist is responsible to ensure that the assigned clinician is aware of the reasonable accommodations required for the contacts with the inmate relative to the Psychiatric Report.
- c) If an inmate requires a reasonable accommodation to effectively communicate, the clinician shall ensure the accommodation is provided in each contact and complete the necessary documentation. Upon completion of the Psychiatric Report, the clinician shall forward the original to the Records Office.
- d) If the inmate requires a reasonable accommodation to effectively communicate, the assigned clinician shall be responsible to review the Psychiatric Report with the inmate to explain its contents and answer any questions the inmate may have regarding the report. If the accommodation is the use of a sign language interpreter, the clinician shall coordinate the services of a sign language interpreter with the C&PR.
- e) When the clinician is responsible for issuance of the report, the institution's Board Desk will provide a copy of the completed Psychiatric Report and a CDC Form 128B to the clinician for issuance to the inmate. The clinician shall have the inmate sign the CDC Form 128B acknowledging receipt of the Psychiatric Report. The clinician shall also document on the CDC Form 128B what reasonable accommodation was used to effectively communicate and whether the inmate appeared to understand the contents of the report to the best of his/her ability. The CDC Form 128B shall be forwarded to Records for inclusion in the inmate's C-File. If the inmate requires a reasonable accommodation to effectively communicate, the

assigned clinician shall be responsible to review the Psychiatric Report with the inmate to explain its contents and answer any questions the inmate may have regarding the report. If the accommodation is the use of a sign language interpreter, the clinician shall coordinate the services of a sign language interpreter with the C&PR.

- f) For all other inmates, the CC-I shall issue the Psychiatric Report to the inmate and have him/her sign the CDC Form 128B acknowledging receipt. The inmate will be responsible to review the report and address any questions or concerns regarding the report to the assigned clinician via a GA Form 22, Request for Interview.

All other functions regarding the Life Prisoner Hearing process not addressed shall remain the same.

D. MENTALLY DISORDERED OFFENDER HEARINGS

1. COORDINATION

The policies and procedures for pre-screening of potential Mentally Disordered Offenders (MDO) remain in effect. The issues pertinent to this Remedial Plan begin with the psychiatric evaluation reports pursuant to Penal Code (PC) Section 2962. All MDO candidates are automatically afforded ADA trained legal representation for the MDO Certification, Placement, and Annual Review Hearings. The MDO Coordinator at each institution shall liaison with the institution's Health Care Services or the Health Care Services Division (HCSD) MDO Unit, as current process provides, and the DMH to coordinate all cases requiring an evaluation.

2. EVALUATIONS

Each inmate referred must have evaluations completed by both CDC and DMH clinicians. In the event of a Difference of Opinion, the institution's MDO Coordinator shall liaison with the BPT MDO Coordinator to schedule two independent evaluators.

- a) The CDC and DMH clinicians will be responsible for using effective communication (simple language and/or any other means of effective communication) during the interview, and documenting such within the body of the report. The Facility Captain of the HCSD MDO Unit will be responsible to liaison with DMH and the institution's MDO Coordinator to ensure that this process is completed.
- b) The institution MDO Coordinator shall assist in the scheduling of CDC, DMH and BPT doctors for evaluations, liaison with medical and custody staff for doctor escorts, inmate ducats and prepare gate pass clearances for the C&PR/RC CC-III or designee signature as needed.
- c) Copies of the CDC and DMH reports shall be forwarded to the HCSD MDO Unit. In those cases where CDC contracts for the evaluation, copies of the evaluation shall

be forwarded to the HCSD MDO Unit by the institution. When cases are found to be positive by both CDC and DMH, or there is a Difference of Opinion, the HCSD MDO Unit will contact the institution MDO Coordinator and request supporting documentation for preparation of the certification package. The certification package will be forwarded by the HCSD MDO Unit to the BPT MDO Unit for review and certification or assignment of independent evaluators.

- d) If the inmate is certified as MDO, the BPT MDO Unit will fax the BPT Form 1400, Certification Order, to the C&PR/RC CC-III, HCSD MDO Unit, Agent in Charge at Atascadero Sub Unit, Parole Agent II at Patton, and the State Hospital Coordinator.

3. BPT FORM 1073 AND RIGHTS PACKET PROCESS

- a) Upon receipt of the BPT Form 1400, the institution MDO Coordinator shall complete Section I of the BPT Form 1073. Completion of the BPT Form 1073 shall be consistent with instructions in Section VIII of this Remedial Plan, including attaching relevant documents and determining through the C-File review. The institution MDO Coordinator shall provide the following packet to the CC-I:

- BPT Form 1073 Notice and Request for Reasonable Accommodation (with attached disability related documents)
- BPT Form 1400 Certification Review
- BPT Form 1401 Information for Persons Certified as Mentally Disordered Offenders
- BPT Form 1410 Notice of Rights to Certification Hearing
- BPT Form 1410(A) Notice of Rights to Certification Hearing-Acknowledgment
- CDC Form 1515 Notice and Conditions of Parole

- b) The CC-I shall conduct an interview with the inmate and review the BPT Form 1073. The CC-I shall complete Sections II and III consistent with the instructions in Section VIII of this Remedial Plan. If the BPT Form 1073 indicates a request for a reasonable accommodation other than a sign language interpreter, the C&PR shall determine if the necessary accommodations are available at the institution by contacting the Institution ADA Coordinator. If the reasonable accommodation is not available, the C&PR shall fax the BPT Form 1073 to the BPT ADA Coordinator. The BPT ADA Coordinator will review the request, document his/her decision on a BPT Form 1073(a), fax it to the C&PR/RC CC-III, and mail the original to the institution. The BPT ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate for the Service and at the hearing.

- c) If the inmate requires the use of a sign language interpreter for effective communication, the CC-I shall not interview the inmate until the sign language interpreter is approved and provided by the BPT ADA Coordinator. The CC-I shall return the packet to the C&PR/RC CC-III to coordinate the sign language interpreter services with BPT ADA Coordinator. The C&PR/RC CC-III shall immediately fax the request to the BPT ADA Coordinator. The BPT ADA Coordinator will document the decision regarding the sign language interpreter

on a BPT Form 1073(a) and fax it to the C&PR/RC CC-III. The C&PR/RC CC-III and the BPT ADA Coordinator will coordinate the services of a sign language interpreter. Upon assignment, the C&PR/RC CC-III or designee shall give the date and time of the appointment and documents to the CC-I for Service and completion of the BPT Form 1073 with the assistance of the BPT approved sign language interpreter. The CC-I shall also review the packet and the MDO process with the inmate. The inmate shall be advised of his/her special condition for treatment at a State Hospital pursuant to PC 2962, and that failure to sign the CDC Form 1515, Notice and Conditions of Parole, shall result in a Rules Violation Report (RVR) being generated and referred to the BPT for a Parole Revocation Hearing. The CC-I shall serve the inmate his/her CDC Form 1515; BPT Form 1410, Notice of Certification Hearing; and BPT Form 1410(A), Notice of Certification Hearing-Acknowledgement.

4. PROCESS WHEN INMATE SIGNS NOTICE AND CONDITIONS OF PAROLE

- a)* If the inmate signs his/her Conditions of Parole, the C&PR/RC CC-III shall liaison with personnel at Atascadero State Hospital (ASH) for male inmates and Patton State Hospital (PSH) for female inmates to facilitate transfer.
- b)* If not previously submitted, the C&PR/RC CC-III shall fax a completed copy of the BPT Form 1073 and supporting documents to the BPT ADA Coordinator.
- c)* The C&PR/RC CC-III shall ensure the appropriate communications are made with designated Parole Region and Agent of Record (AOR) by faxing the following documents:
 - BPT Form 1073
 - BPT Form 1400
 - BPT Form 1410(A)
 - CDC Form 1515
- d)* The C&PR/RC CC-III shall arrange for the transfer of the inmate to the appropriate State Hospital. The following documents shall be faxed to ASH for male inmates and PSH for females:
 - BPT Form 1073
 - BPT Form 1400
 - BPT Form 1410(A)
 - CDC Form 801, Notice of Detainer (if inmate is received at ASH or PSH prior to date of parole)
 - CDC Form 1515
 - CDC Form 7371, Confidential Medical/Mental Health Information Transfer (ASH/PSH only - fax 24 to 48 hours prior to admission)

- e) Upon admission to the State Hospital, the assigned Parole Agent shall prepare a BPT Form 1430, Mentally Disordered Offender Scheduling Request, and fax it to the BPT MDO Unit.
- f) Upon receipt of the BPT Form 1430, the BPT MDO Unit shall schedule a Certification Hearing.

5. PROCESS WHEN INMATE DOES NOT SIGN NOTICE AND CONDITIONS OF PAROLE

When an MDO is located at a prison and **refuses to sign his/her special condition** for MDO treatment, institution staff, as identified below, shall do the following:

- a) The CC-I shall immediately write the RVR if the inmate refuses to sign the CDC Form 1515. The C&PR/RC CC-III or designee shall notify the BPT MDO Coordinator and HCSD MDO Unit of the inmate's refusal upon receipt of the CDC Form 804, Notice of Pending CDC Form 115.
- b) The C&PR/RC CC-III shall complete and fax a BPT Form 1135 to the Central Office Calendar requesting placement of a parole hold, pursuant to PC Section 3060.5, and scheduling of a Revocation Hearing.
- c) Within two weeks of notification of the inmate's refusal to sign MDO special condition, BPT's MDO Coordinator shall appoint an attorney to consult with the inmate. The attorney is responsible for assisting the inmate in deciding whether to accept or refuse the special condition for MDO treatment. It shall be the responsibility of the BPT to provide appropriate training for the attorney.
- d) The institution shall be responsible for arranging gate clearance and escorts consistent with current institution procedures.
- e) The BPT MDO Coordinator shall confirm, in writing, the attorney's appointment to the C&PR/RC CC-III and provide the attorney with a copy of the BPT certification package, including the clinical evaluations.
- f) It is the responsibility of the attorney to consult with the inmate and present the following information:
 - 1) An explanation of the MDO special condition.
 - 2) The nature of treatment provided under the MDO special condition.
 - 3) The State Hospital environment.
 - 4) The rights of State Hospital patients.
 - 5) The ability of treatment to reduce future offenses.
 - 6) The consequences of refusing to sign MDO special conditions are:
 - Revocation and remain in prison.
 - Extension of the parole term.

- Reevaluation, which may still result in the MDO special conditions at end of revocation period.
- g)* If after the attorney consultation the inmate decides to sign the special condition for MDO treatment:
- 1)* The attorney shall deliver the packet to the C&PR/RC CC-III.
 - 2)* The C&PR/RC CC-III shall prepare a BPT Form 1135, Miscellaneous Decision, recommending that BPT's action to schedule a Revocation Hearing be rescinded.
 - 3)* The C&PR/RC CC-III shall fax the BPT Form 1135 to the Central Office Calendar for review and approval.
 - 4)* The C&PR/RC CC-III shall arrange the transfer of the inmate to the appropriate State Hospital.
 - 5)* Upon admission to the State Hospital, the assigned parole agent shall prepare a BPT Form 1430, Mentally Disordered Offender Scheduling Request, and fax it to the BPT Offender Screening Section.
 - 6)* Upon receipt of the BPT Form 1430, the BPT MDO Unit will schedule a Certification Hearing.
- h)* If after attorney consultation the inmate continues to refuse to sign his/her special condition for MDO treatment:
- 1)* The attorney shall deliver the packet to the C&PR/RC CC-III.
 - 2)* The C&PR/RC CC-III shall notify the BPT MDO Coordinator.
 - 3)* The BPT MDO Coordinator will arrange for a clinician (licensed psychologist or psychiatrist) to assess whether the inmate's severe mental disorder has impaired his/her ability to make a knowing and intelligent decision to accept or refuse the MDO special condition of parole.
 - 4)* The clinician will prepare and forward a written report to the BPT MDO Coordinator. The BPT MDO Coordinator will send a copy of the report to the C&PR/RC CC-III for filing in the BPT section of the C-File. The BPT MDO Coordinator will also forward the report to a BCPA.
- i)* If the clinical evaluation determines that the inmate's severe mental disorder has impaired his/her ability to make a knowing and intelligent decision, it shall be the responsibility of staff to provide the following services:
- 1)* The BCPA will prepare a BPT Form 1135 recommending that BPT's action to schedule a Revocation Hearing be rescinded.

- 2) The BCPA will submit the BPT Form 1135 to Central Office Calendar for review and approval.
 - 3) Once a decision is made, a copy of the BPT Form 1135 shall be faxed and mailed by the staff at Central Office Calendar to the C&PR/RC CC-III.
 - 4) The C&PR/RC CC-III shall ensure the faxed copy of the BPT Form 1135 is processed and placed in the BPT section of the C-File.
 - 5) The C&PR/RC CC-III shall arrange for transfer of the inmate to the appropriate State Hospital.
- j) If the clinical evaluation determines the inmate has the ability to make a knowing and intelligent decision, the revocation process will proceed in accordance with Parole Revocation Hearing processing as outlined in Section IX. In these cases, however, the CC-I will conduct the Service.
- k) If the MDO has not been placed in outpatient treatment within 60 calendar days of admission to the State Hospital, the assigned parole agent shall serve the inmate/parolee a BPT Form 1420, Notice of Right to Placement Hearing, and BPT Form 1420(A), Notice of Right to Placement Hearing-Acknowledgment. Prior to serving the BPT Forms 1420 and 1420A, the Parole Agent shall review the BPT Form 1073 for the presence of a disability (other than severe mental disorder). If a disability is indicated and the reasonable accommodation is not available, the Parole Agent shall contact the BPT ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 to the BPT MDO Unit for scheduling of the Placement Hearing.

6. CERTIFICATION HEARINGS

Upon admission to the State Hospital, the assigned Parole Agent shall review the BPT Form 1073 for the presence of a disability (other than severe mental disorder). If a disability is indicated and the reasonable accommodation is not available, the Parole Agent shall contact the BPT ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 to the MDO Unit for scheduling of the Certification Hearing.

7. PLACEMENT HEARINGS

If the MDO has not been placed in outpatient treatment within 60 calendar days of admission to the State Hospital, the assigned Parole Agent shall serve the inmate/parolee a BPT Form 1420, Notice of Right to Placement Hearing, and BPT Form 1420(A), Notice of Right to Placement Hearing-Acknowledgment. Prior to service the BPT Forms 1420 and 1420(A), the Parole Agent shall review the BPT Form 1073 for the presence of a disability (other than severe mental disorder). If a disability is indicated and the reasonable accommodation is not available, the Parole Agent shall contact the BPT ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 to the BPT MDO Unit for scheduling of the Placement Hearing.

8. ANNUAL REVIEWS

One year after admission to the State Hospital, and annually thereafter, the assigned parole agent shall serve a BPT Form 1460, Notice of Right to Annual Review Hearing, and a BPT Form 1460(A), Notice of Right to Annual Review Hearing-Acknowledgment, to the inmate. Prior to serving the BPT Forms 1460 and 1460(A), the Parole Agent shall review the BPT Form 1073 for the presence of a disability (other than severe mental disorder). If a disability is indicated and the reasonable accommodation is not available, the Parole Agent shall contact the BPT ADA Coordinator. The Parole Agent shall prepare and fax a BPT Form 1430 to the BPT MDO Unit for scheduling of a Placement Hearing. This process applies to all parolees with MDO special conditions of parole being treated on an inpatient or outpatient basis

E. SEXUALLY VIOLENT PREDATOR HEARINGS

The policies and procedures for screening of potential Sexually Violent Predators (SVP) remain in effect. The issues pertinent to this Remedial Plan begin when it becomes necessary for a BPT Probable Cause Hearing. All SVP candidates are automatically afforded legal representation for their BPT probable cause hearings. However, the SVP Coordinator and the CC-I shall ensure the completion of the BPT Form 1073. The following clarifies the process:

1. PROBABLE CAUSE HEARINGS

- a)* Upon notice/determination that a probable cause hearing is needed, it is the responsibility of the BPT's SVP Hearing Coordinator to:
 - 1)* Determine the date, time, and place of the hearing and coordinate scheduling arrangements with the BPT's Hearing Division.
 - 2)* Determine the need for a 72-hour hold, and prepare and fax a BPT Form 1135 to the C&PR/RC CC-III/RHC.
 - 3)* Notify the C&PR/RC CC-III/RHC of the schedule for conducting the hearing.
 - 4)* Collect pertinent documents needed to conduct the hearing, assign an attorney, and fax all hearing documents to the C&PR/RC CC-III/RHC for presentation to the hearing officer and the attorney.
 - 5)* The SVP Hearing Coordinator, in conjunction with the BPT ADA Coordinator, will ensure that the known appropriate accommodations are made available prior to meeting with the inmate/parolee.
 - 6)* When there is a notice or determination that a probable cause hearing is needed, each institution's SVP Coordinator shall complete Section I of the BPT Form 1073, or update it, if applicable. Completion of the form shall be consistent with instructions in Section VIII of this plan, including attaching

relevant documents. The SVP Coordinator shall provide the following packet to the CC-I:

- BPT Form 1073 Notice and Request for Reasonable Accommodation
- BPT Form 1100(c) Notice of Probable Cause Hearing
- BPT Form 1100(d) Notice of Probable Cause Hearing–Acknowledgment
- No BPT form number Notice to Parolees Subject to the Sexually Violent Predator Act

- b)* The CC-I shall conduct an interview with the inmate, reviewing the BPT Form 1073, and explaining the grievance process via the BPT Form 1074. If the BPT Form 1073 indicates a request for a reasonable accommodation other than a sign language interpreter, the C&PR/RC CC-III shall determine if the reasonable accommodations are available at the institution by contacting the institution ADA Coordinator. If the reasonable accommodation is not available, the C&PR/RC CC-III shall fax the BPT Form 1073 to the BPT ADA Coordinator. The BPT ADA Coordinator will review the request, document his/her decision on a BPT Form 1073(a), and fax it to the C&PR/RC CC-III. The BPT ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate at the hearing.
- c)* If the inmate requires the use of a sign language interpreter for effective communication, the CC-I shall not interview the inmate until a sign language interpreter is approved and provided by the BPT. The CC-I shall return the packet to the C&PR/RC CC-III. The C&PR/RC CC-III will fax the BPT Form 1073 and all disability related documents to the BPT ADA Coordinator to coordinate the services of a sign language interpreter. The BPT ADA Coordinator shall review the request, document his/her decision on a BPT Form 1073(a), and fax it to the C&PR/RC CC-III. The C&PR/RC CC-III and the BPT ADA Coordinator will coordinate the services of a sign language interpreter. Upon assignment, the C&PR/RC CC-III or designee shall give the time and date of the appointment and the documents to the CC-I for service and completion of the BPT Form 1073 with the assistance of the sign language interpreter. Sections II and III shall be completed consistent with the instructions in Section VIII of this Remedial Plan. The CC-I shall also review the packet and the SVP process with the inmate/parolee. The BPT ADA Coordinator will be responsible to ensure the accommodation is provided to the inmate/parolee at the hearing.
- d)* If not previously submitted, the C&PR/RC CC-III or designee shall fax a completed copy of the BPT Form 1073 and supporting documents to the BPT ADA Coordinator.
- e)* The BPT ADA Coordinator will document the decision on a BPT Form 1073(a) and fax to the institution via the C&PR/RC CC-III for delivery to the inmate.
- f)* The CC-I shall be responsible for noticing the inmate of the Probable Cause Hearing via a BPT Form 1080, Notice of Date, Time and Place of Hearing.

- g)* If the inmate is unsatisfied with the ADA Coordinator's decision, he/she shall be given a BPT Form 1074 so that he/she can grieve the decision to the Chief Deputy Commissioner (refer to Grievance Procedures, Section XII).
- h)* The C&PR/RC CC-III shall verify before the scheduled date of the hearing whether the request for accommodation was granted or denied.
- i)* If after the hearing, where probable cause is found and a 45-day hold is imposed, the inmate believes that he/she was not provided with a fair hearing because he/she was not provided with the appropriate accommodation, the inmate may appeal by attaching to the BPT Form 1040 a copy of the previously submitted BPT Form 1073, BPT Form 1073(a) and BPT Form 1074 and forwarding them to the BPT Appeals Unit via the C&PR/RC CC-III (refer to Appeals Procedures, Section XIII).
- j)* If an appeal is granted, the 45-day hold imposed at the original hearing shall continue to run, and the BPT's Probable Cause Hearing is to be reheard within two weeks from the decision to grant the appeal, but no later than the end of the 45-day hold. At the time of a rehearing, the inmate will be beyond the prison release date and will have been transferred to DMH and coordination of the rehearing will be done by the Offender Screening Section. If a rehearing is granted and probable cause is found, the calculation of the 45-day hold is to be added to the inmate's date of release from prison.

X. TRANSITION TO PAROLE AND COMMUNITY SERVICES DIVISION

The transition from the institution to the Parole and Community Services Division (P&CSD) involves the use of the following forms: Release Program Study; CDC Form 611 (Rev 5/01) or later version, Notice of Release Date and Residence Plan – From Institution to Parole Unit; CDC Form 1121, and the Notice and Conditions of Parole, CDC Form 1515. It is through the use of these documents that institution staff will relay pertinent information to parole region staff regarding the identification of potential disabilities and the possible special needs the inmate/parolee may have due to those disabilities. Parole region staff shall retain the documentation provided in the field file for use in their contacts with the parolee.

The following outlines the requirements for institution staff in ensuring an efficient and effective transition process.

A. CDC FORM 611 – RELEASE PROGRAM STUDY

The CDC Form 611 (Rev 5/01) was issued on May 21, 2001. Among the changes to the CDC Form 611 (Rev 5/01) process was the requirement to identify and attach source documents that verify disabilities. The changes to the form which are pertinent to this Remedial Plan are located in the "Medical/Psychiatric" and "Caseworker Evaluation" sections of the form.

1. In completing the CDC Form 611 (Rev 5/01) or later version, the CC-I shall conduct a thorough review of the C-File for documentation which may identify a disability. Such documentation includes, but is not limited to, the source documents identified in Section V of this Plan.
2. The CC-I shall check the appropriate box on the form and annotate the date of the verification document.
3. The CC-I shall write any other observations they have from the file review or interview with the inmate/parolee on the form.
4. The CC-I shall complete the remainder of the CDC Form 611 (Rev 5/01) or later version, consistent with current directives.
5. Records staff shall review the CDC Form 611 (Rev 5/01) or later version, copy and attach the verification documents including the CDC Form 128B if TABE reading score is 4.0 or lower, and send it to the appropriate parole region consistent with current procedures.
6. If verification documents are generated which result in a change in the inmate's disability status (e.g. CCCMS to EOP, change on CDC Form 1845, etc.) after the CC-I has submitted the CDC Form 611 (Rev 5/01) or later version to the C&PR, the CC-I shall inform the C&PR to ensure that the new information is relayed to the appropriate parole region.

B. CDC FORM 1515 – NOTICE OF CONDITIONS OF PAROLE

The CDC Form 1515 is used to advise all inmates of the conditions and special conditions that they must adhere to while on parole.

1. The CDC Form 1515 was revised in simple English to include the following information:
 - a) A statement which advises the inmate/parolee of his/her rights under the ADA.
 - b) An opportunity for the inmate/parolee to advise staff of his/her need for assistance in understanding/completing the form.
 - c) A box for staff to check indicating whether or not the inmate/parolee appeared to understand the information.
 - d) An area for staff to document the type of accommodation used to ensure effective communication, if any.
 - e) An area for staff to document any pertinent comments regarding their observations.

2. The following are the instructions for the correctional counselor, parole agent, or other peace officer, who issues the Notice of Conditions of parole to the inmate/parolee:

Section I – Inmate/Parole Rights and Self Identification

- a) The issuing staff shall review all available disability verifying documents and ensure the reasonable accommodation and/or assistance required is available prior to completing the form.
- b) Read the statement in the first box to the inmate/parolee.
- c) Ask the inmate/parolee to complete, initial and date the portion of the document which asks whether or not he/she needs help.
- d) Ensure the reasonable accommodation and/or assistance required is available to ensure effective communication (i.e., magnifying glass, sign language interpreter, hearing aid, reading the document to the inmate/parolee, etc.)

Section II – General Parole Information

- a) Ask the inmate/parolee to read the general parole information.
- b) Ask the inmate/parolee to explain the general parole information.
- c) If the inmate/parolee appears to have difficulty understanding the information, discuss the information to ensure he/she understands to the best of his/her ability.

Section III – Conditions of Parole

- a) Ask the inmate/parolee to read the conditions of parole.
- b) Ask the inmate/parolee to explain **each** of his/her conditions of parole.
- c) If the inmate/parolee appears to have difficulty understanding a certain condition, discuss the condition to ensure he/she understands to the best of his/her ability.
- d) Ask the inmate/parolee to print his/her name and CDC number and sign and date the form.

Section IV – Staff Observation

- a) Check the appropriate box regarding the inmate's/parolee's ability to understand. Note: If the box marked "appears to have difficulty understanding" is checked, you must explain your observations in the Comments section.
- b) If applicable, document the alternate method of communication used to ensure effective communication, such as simple English, magnifying glass, sign language interpreter, hearing aid, etc.

- c) If applicable, write any observations and/or comments which you believe are pertinent regarding the issuance of the document.
 - d) Print your name and sign and date the form.
 - e) Provide the inmate/parolee with an NCR copy of the form.
 - f) Forward the original CDC Form 1515 to the Records Office for placement in the C-File.
3. If **Special Conditions of Parole** are received at the institution after original Notice of Conditions of Parole are signed, the following steps shall be followed:
- a) When the Parole Desk staff receives the CDC Form 1515 with special conditions, they will make copies of the correlating CDC Form 611 (Rev 5/01) or later version and/or the CDC Form 1121 and attachments, if any, including the CDC Form 128B (as described in Section X, C, of this Plan).
 - b) The Parole Desk shall forward this documentation to the CC-I along with the CDC Form 1515.
 - c) The CC-I will review the CDC Form 611 (Rev 5/01) or later version and any attachments to determine if the inmate/parolee requires assistance with effective communication during the service of the CDC Form 1515 with special conditions of parole.
 - d) If the CC-I identifies a need for a reasonable accommodation to ensure effective communication, he/she shall ensure that the accommodation is provided when issuing the CDC Form 1515.
 - e) The CC-I shall issue the CDC Form 1515 with special conditions of parole consistent with Section X, B, 2, of this Plan, and return the CDC Form 1515 to the Records Office.
 - f) The Records staff will forward the completed CDC Form 1515 to the appropriate parole region.

C. CDC FORM 1121 – NOTICE OF RELEASE DATE AND RESIDENCE PLAN – FROM INSTITUTION TO PAROLE UNIT

The CDC Form 1121 is used instead of a CDC Form 611 for inmates who are released on parole and subsequently returned on a parole violation as a Parole Violator Return to Custody (PV-RTC). As indicated previously, the importance of transferring information that identifies and/or verifies a disability from the institution to the parole region cannot be overstated. In order to make the best use of staff resources, the following procedure will occur for PV-RTC cases at the time that the CC-I is preparing the case for Initial Classification Committee:

- a)* The CC-I shall review the C-File to determine whether a CDC Form 611 (Rev 5/01) or later version with attachments has been completed.
- b)* If a CDC Form 611 (Rev 5/01) or later version was not completed when the inmate last paroled, the CC-I shall conduct a thorough review of the C-File for any documents that verify a disability. The CC-I shall complete a CDC Form 128B identifying all of the disability verifying documents found and file the CDC Form 128B in the general chrono section of the C-File.
- c)* If a CDC Form 611 (Rev 5/01) with documents attached was completed, or if the documents were attached to a prior CDC Form 128B, the CC-I shall conduct a thorough review the C-File for any newly generated documents since the inmate/parolee was received on the current revocation. The CC-I shall complete a CDC Form 128B and file it in the general chrono section of the C-File.
- d)* Records staff shall review the CDC Form 128B, copy the identified disability verifying documents, attach them to a copy of the CDC Form 128B, and forward the documents with the CDC Form 1121 to the appropriate parole region consistent with current procedures.
- e)* If verification documents are generated which result in a change in the inmate's disability status (e.g. CCCMS to EOP, change on CDC Form 1845, etc.) after the CC-I has completed the CDC Form 128B, the CC-I shall inform the C&PR to ensure that the new information is relayed to the appropriate parole region.
- f)* For cases where the Initial Classification Committee has already occurred, the CC-I shall complete the CDC Form 128B at the time that the CDC Form 1121 is completed.

If the PV-RTC is to be released on parole from the Reception Center, the RC CC-I shall complete the CDC Form 128B (as described in Section X, C, of this Plan) and file the CDC Form 128B in the C-File. Records staff shall review the CDC Form 128B, copy the identified disability verifying documents, attach them to a copy of the CDC Form 128B, and forward the documents with the CDC Form 1121 to the appropriate parole region consistent with current procedures.

XI. PAROLE AND COMMUNITY SERVICES DIVISION - PAROLE PROCEEDINGS

All parolees shall be provided the opportunity to request a reasonable accommodation via a BPT Form 1073 to ensure effective communication and/or equal access to all parole proceedings. A BPT Form 1073 shall be provided to all parolees prior to any parole proceedings in order to identify the need for an accommodation during the proceeding.

A. PAROLE VIOLATIONS

1. DISCOVERY OF ALLEGED VIOLATION

- a)* Arrest and placement of a parole hold or date of discovery, or date of discovery for Not in Custody (NIC) cases.

When the parole agent personally arrests a parolee or discovers a violation for NIC cases, he/she will effectively communicate the reason for the arrest (parole violation charges) or the reason for placement of the parole hold and the parolee's right to appeal. The parole agent will document how he/she effectively communicated the violation charges to the parolee on the CDC Form 1650(d), Record of Supervision.

- b)* The Unit Supervisor (US) will ensure:

- 1)* Revocation Scheduling and Tracking System (RSTS) record is initiated.
- 2)* The reason for the parole hold is forwarded to the RU.
- 3)* The notice of reason for the parole hold (CDC Form 1676) and notice of rights to appeal is initiated within one working day of arrest or discovery of an arrest or parole violation and is generally served via mail to the incarcerated parolee.
- 4)* When it has been determined that a parolee cannot read or understand the notice of reasons for the parole hold and the right to appeal, the parolee will be personally provided a copy of the CDC Form 1676 by the parole agent no later than seven days after placement of the parole hold, using effective communication. The method of effective communication will be documented on the CDC Form 1650(d).
- 5)* If the decision is to continue the parolee on parole at the unit level, a copy of the CDC Form 1502, Activity Report, or a CDC Form 1676 or RSTS equivalent with "Continue on Parole" clearly marked on it, is forwarded to the RU to close the record in RSTS and the parole hold is removed, if the parolee is in custody.

2. VIOLATION REPORT

- a)* The AOR submits the violation report to the typing pool by the end of the sixth working day after the date of the hold/discovery of the parole violation.
- b)* In addition to the CDC Form 1676, the revocation packet shall include the following documentation verifying a disability:
- BPT Form 1073 Notice and Request for Reasonable Accommodation
 - CDC Form 128B General Chrono
 - CDC Form 128C Chrono-Medical, Psych, Dental
 - CDC Form 128C-1 Chrono-Reception Center Medical Clearance

- CDC Form 128C-2 Chrono-Recommendation for Adaptive Support
 - CDC Form 611 Release Program Study (revision date 05/01 or later), front and back
 - CDC Form 1824 Reasonable Modification or Accommodation Request
 - CDC Form 1845 Inmate/Parolee Disability Verification
- c)* The US will review the violation report, ensure that the appropriate documentation is included, and if approved, sign the report within eight working days of the date of the parole hold/discovery of the parole violation.
- d)* The complete packet is forwarded to the appropriate RU for processing. Once received by the RU, staff will review the packet for completeness, including documents that verifies or disclaims a disability.
- e)* If the packet does not contain any of the documentation identified above, RU staff will fax a list daily to the appropriate Parole Case Records Office [Case Records North (CRN) or Case Records South (CRS)] requesting any documents that either identify a disability or refute a disability. Records staff will fax the documents to the RU no later than 24 hours after the request. The RHC or designee shall complete a checklist of all forms received prior to forwarding the revocation packet to the DC.
- f)* In cases where the RHC is requesting documentation and the central file has not been received at CRN or CRS, the following process will occur:
- 1)* The Correctional Case Records Manager (CCRM) at CRN or CRS shall call the CCRM at the institution where the C-File was last maintained prior to parole.
 - 2)* If the CCRM at the institution has the C-File, the CCRM at CRN or CRS shall immediately fax the request from the RHC to the institution for processing.
 - 3)* The CCRM at the institution shall pull the C-File and take it to the C&PR to identify what documents should be faxed to the RHC.
 - 4)* Once the documents are identified by the C&PR, the CCRM will ensure that they are copied and faxed to the RHC. A copy of the documents will also be sent to the parole unit. These documents need to be flagged for permanent retention in the field file when they are forwarded to the parole unit. If the inmate/parolee violates at a later time, the unit will have these documents readily available for inclusion with the violation report. This will eliminate the need for the RHC to request documents from the central file when the case is being screened.
 - 5)* A copy of the request shall not be placed in the central file. Once the documents have been sent to the RHC, the CCRM shall retain a folder with the request along with a copy of the documents that were faxed to the RHC.

- 6) The CCRM at the institution shall ensure that the central file is not mailed until the process is completed and the documents are faxed to the RHC.
- g) In cases where the central file has already been mailed to CRN or CRS, the CCRM at the institution shall immediately fax a copy of the CDC Form 134 to the CCRM at the appropriate Parole Records Office, either CRN or CRS.
- h) In cases where the RHC is requesting documentation and the central file was mailed to the RC from CRN or CRS, the following process will occur:
 - 1) The CCRM at CRN or CRS shall call the CCRM at the appropriate RC and inform them of the request.
 - 2) The CCRM at the appropriate Parole Records Office (CRN or CRS) shall fax the request to the CCRM at the RC along with the CDC Form 134 and notify the RHC of the status of the case.
 - 3) Upon receipt of the C-File, the CCRM shall take the C-File to the RC CC-III to identify what documents should be faxed to the RHC.
 - 4) Once the documents are identified by the RC CC-III, the CCRM will ensure that they are copied and faxed to the RHC. A copy of the documents will also be sent to the parole unit. These documents need to be flagged for permanent retention in the field file when they are forwarded to the parole unit. If the inmate/parolee violates at a later time, the unit will have these documents readily available for inclusion with the violation report. This will eliminate the need for the RHC to request documents from the C-File when the cases are being screened.

The request shall not be placed in the C-File, but retained in a folder by the CCRM.

- i) The RU staff will prepare the revocation packet and BPT Form 1132, Control Log, for review at the next day's BPT Screening Calendar.
- j) The RU staff will check the daily list of cases in RSTS that reflect no violation report has been received. Cases that have had a parole hold in place for 10 working days or more, and no action has been taken by the US or a violation report has not been submitted to the RU, shall be identified and forwarded to the US requesting an action to continue on parole or submit a violation report.
- k) When a reply is received from the US, RU staff will update the status in RSTS.

B. PAROLE REVOCATION PROCESS

1. REVOCATION SCREENING

- a) The BPT DC reviews the revocation packet to determine whether the parolee's conduct warrants a revocation proceeding. Public safety and due process are the

DC's concerns when making a decision to continue with revocation proceedings. The DC has the following options:

- 1) Place a parole hold on NIC cases.
 - 2) Schedule an NIC case for a Revocation Hearing.
 - 3) Remove the parole hold and schedule for an NIC hearing.
 - 4) Retain the parole hold and make a screening offer or order a Revocation Hearing.
 - 5) Continue on parole and order the parole hold removed.
 - 6) Dismiss the charges and order the parole hold removed.
 - 7) Credit for time served.
- b)* Reasonable accommodation shall be afforded to qualified parolees with disabilities, as defined in Title II of the ADA, when necessary, to ensure effective communication during all parole proceedings.
- c)* The DC will review the revocation packet and assess whether the parolee requires the assistance of an attorney, either due to a determination of a colorable claim of innocence/mitigation or the complexity of the charges, as provided in CCR, Title 15, Sections 2690-2701.
- d)* The DC at the Screening Calendar will no longer take a screening action without adequate positive or negative documentation verifying or disclaiming a disability. Documentation can include the CDC Form 128C series, CDC Form 128B, CDC Form 1845, a prior completed BPT Form 1073 with verifying documents or documents that verify no disability, or specific documentation of a disability in the violation report.
- e)* Parolees designated by the DC as requiring an attorney will not be referred to a DHA for the Service. These cases will be processed by BPT staff at a Region Revocation Unit and referred directly to an attorney for consultation and to the BCPA for a Due Process Review.
- f)* Parolees who are designated by the DC at Screening Calendar to require an attorney without the right to waive representation will include, at a minimum, all parolees presently suffering from a mental disorder which would require treatment in the CDC's MHSDS at the DMH, EOP, or MHCB level of care, and those identified as developmentally disabled. The DC at Screening Calendar may assign an attorney to parolees who have a right to waive representation (see categories listed in Section VI, C. Additionally, parolees may be assigned an attorney based on a determination of a colorable claim of innocence/mitigation, or complexity of the charges, as provided in CCR, Title 15, Sections 2690-2701.

2. SERVICE OF NOTICE OF HEARING RIGHTS

- a)* Prior to the Service of Rights (Service), the DHA shall review the revocation packet for information to determine whether the parolee requires reasonable accommodation to effectively communicate at the serve process. For those parolees who require an auxiliary aid to effectively communicate (hearing or speech impaired), the RHC shall ensure the accommodation is provided prior to meeting with the parolee. If the auxiliary aid is not available, the RHC shall ensure the BPT ADA Coordinator is contacted for the appropriate accommodation.
- b)* The DHA Service shall be conducted on or about the 20th day after the parole hold. A parolee scheduled for a hearing as an NIC case shall be served with hearing rights as soon as possible after the DC's action to schedule a hearing.
- c)* The DHA will conduct the Service of Hearing Rights on parolees not designated by the DC as attorney/BCPA Review cases. For those parolees who require use of a sign language interpreter, the DHA will not complete the service without the assistance of a sign language interpreter approved and provided by the BPT. The DHA shall initiate the contact with the parolee by having them complete the BPT Form 1073, Section II, allowing them the chance to self-identify any disabilities and request for accommodation. The DHA shall then complete Section III, documenting his/her observation of the parolee. If no additional accommodation is needed, the DHA will continue with the Service. The DHA will be required to complete a BPT Form 1100(a), Notice of Right to Revocation Hearing-Acknowledgement, by reviewing the Rights with the parolee and obtaining the parolee's initials in Section A indicating that he/she understands his/her rights. The DHA will then have the parolee initial Section B, indicating he/she has been informed of the 72-hour waiting period; Section C, indicating he/she has received copies of the revocation documents; and Section D, indicating he/she has received copies of the worksheets. In conjunction with completion of this form, the DHA will provide the following revocation documents to the parolee, using effective communication:

 - 1)* BPT Form 1073 (completed during the DHA Service)
 - 2)* BPT Form 1100, Notice of Rights to Revocation Hearing
 - 3)* BPT Form 1104, Summary of Revocation Decision (include both pages)
 - 4)* "Olsonized" copy of the violation report
 - 5)* "Olsonized" copy of any police reports or other reports that support the charges
 - 6)* BPT Form 1100(b)-W, Request for Witnesses-Worksheet, and advise the parolee/inmate to provide the BPT Form 1100(b)-Worksheet to the BCPA at the time their decision is collected and recorded, no sooner than 72 hours from the time of the DHA Service.

- 7) BPT Form 1083-W, Attorney Request-Worksheet, and advise the parolee/inmate to provide the BPT Form 1083-Worksheet to the BCPA at the time their decision is collected and recorded, no sooner than 72 hours from the time of the DHA Service.
- d) The DHA shall not:
- 1) Accept a decision by a parolee regarding the Screening Offer.
 - 2) Complete the Service for a parolee who has been provided an attorney at the initial screening by the BPT.
- e) Upon completion of the DHA Service, the revocation packet used by the DHA will be returned to the RU. The RU staff will forward the completed Serve packet, within 48 hours of the DHA Service, to the designated BCPA pick-up point for a BCPA Review. The DHA shall ensure the following documents and forms are included in the revocation packet before forwarding it back to the RU:
- 1) The original violation report (not Olsonized)
 - 2) The original police report(s) or other documents supporting the charges (not Olsonized)
 - 3) The original of the BPT Form 1073 (completed by the DHA during the Service)
 - 4) The original of the BPT Form 1100(a)
 - 5) The original of the BPT Form 1104 (include both pages)
 - 6) The original CDC Form 1676 Tracking Sheet
 - 7) A blank BPT Form 1100(b), Request for Witnesses
 - 8) A blank BPT Form 1101, Waiver of Revocation Hearing
 - 9) A blank or incomplete BPT Form 1654, Witness List

3. BCPA DUE PROCESS REVIEW

- a) A BCPA Review will be conducted on all cases after the DHA has conducted the initial Serve. The BCPA will pick up the revocation packet and complete a BCPA Review within seven calendar days, following the DHA Service. The BCPA will initiate the Review by first completing a BPT Form 1073(b), BCPA Due Process/ADA Review, on each parolee. During the review, the BPT Form 1101, BPT Form 1676, and BPT Form 1654, as appropriate, will be completed, and the parolee's decision and signature will be placed on the BPT Form 1104. If at an institution, it is the responsibility of the BCPA to

coordinate with the C&PR/RC CC-III the date and time of their BCPA Review at least two working days prior to their arrival.

Note: If a parolee has a disability and waives reasonable accommodation and staff believe that the disability may preclude the parolee from participating or effectively communicating at the parole proceeding without an accommodation, the BCPA shall ensure the need for accommodation is recorded and provided to the RU.

- b)* Upon completion of the BCPA Review, the parolee decision will be forwarded to the RU for RSTS input.
 - 1)* In cases of a parolee's rejection of the screening offer, the RU will proceed with hearing preparation.
 - 2)* In cases when the parolee accepts the screening offer or chooses to take an optional waiver, the RU will input the results in RSTS.
 - 3)* If a parolee who chose an optional waiver later activates the hearing option, the case will be forwarded to the designated BCPA pick-up point for completion of Service in accordance with the aforementioned protocol.
- c)* If the parolee is denied an attorney by the BCPA, and the parolee appeals that decision, the BCPA will be responsible for forwarding the appeal to a DC at Central Office Calendar. The BCPA will ultimately be responsible for ensuring all due process rights have been afforded the parolee, and that the parolee has been advised of the ADA protections and any need for accommodation properly identified to ensure equal access.
- d)* In cases where new information is discovered during the BCPA Review that could impact liberty or future BPT actions, the BCPA will be responsible for conducting any necessary research, documenting the circumstances, and forwarding a BPT Form 1135 to a DC at the Central Office Calendar for consideration. Upon completion of the DC review, the BPT will fax the completed BPT Form 1135 to the RU, the institution's Records Office, or CRN or CRS for processing, whichever is appropriate. The original Miscellaneous Decision should be mailed to the same location.

4. ATTORNEY CASES

- a)* If an attorney is assigned at the time of screening by the BPT's DC, the BPT staff at the RU shall be responsible for preparing and delivering the packets to the attorney and the BCPA. The BCPA will complete the entire Revocation Service process.
- b)* Upon receipt of a revocation packet, the BCPA will note the due date of the BPT Form 1104(b) and complete the Service and Due Process Review (BCPA Review) as soon as possible following the Screening Calendar action, but not later than five calendar days. It is the responsibility of the BCPA to coordinate with the C&PR/RC CC-III the date and time of their BCPA Review at least two working days prior to their arrival.

- c)* The attorney will be given 10 working days from the date of the Screening Calendar action to meet and consult with his/her client in preparation of the hearing, or to notify the BPT of the parolee's intent to accept the Screening Offer via the BPT Form 1104(b).
- d)* After meeting with the parolee, the attorney will deliver the BPT Form 1104(b) to the BCPA or designee. Both the attorney and the parolee must sign and date the BPT Form 1104(b).
- e)* The BCPA will forward the completed documents, including the BPT Form 1104 and the BPT Form 1104(b) to the RU for processing. If the documents are faxed, the BCPA will forward the original documents to the RU the same day they are faxed.
- f)* If the attorney requests an extension, the BCPA will fax a BPT Form 1104(c), Inmate/Parolee Waiver Form, to the attorney. The attorney will immediately sign the form, fax it back to the BCPA, and mail or deliver the original to the RU for placement in the revocation packet.
- g)* If the BPT Form 1104(b) is not returned within the 10 working day period and an Inmate/Parolee Waiver Form is not received, the BCPA will complete the Service paperwork, indicating the case is to be scheduled for a hearing. On the 11th working day, the BCPA will request the RU to schedule a Revocation Hearing.
- h)* Once the BCPA requests a hearing, the attorney will not be permitted to invoke acceptance of a Screening Offer without approval by an ACDC.
- i)* If the ACDC approves acceptance of a Screening Offer after the revocation documents have been completed by the BCPA, the ACDC shall have the attorney and inmate document the acceptance on a BPT Form 1104(b) and return it to the ACDC immediately. The ACDC will complete a new BPT Form 1104 reflecting the change in decision. The ACDC will fax a copy of the new BPT Form 1104 and BPT Form 1104(b) to the RU, and mail the original. The RU shall cancel the Revocation Hearing, if appropriate.
- j)* In those cases where an attorney is determined by the BCPA to be necessary due to previously unidentified ADA issues, the BCPA will immediately notify the appropriate BPT staff member at Region Revocation of the need for an attorney. After the BPT assigns an attorney, the BCPA will coordinate delivery of the attorney packet within 48 hours. The attorney will have 10 calendar days to meet with his/her client and determine whether to accept the Screening Offer or to proceed with a hearing. The remainder of the process will mirror that as outlined above, with the exception of the time frames being measured in calendar days from the date of the BCPA Review.
- k)* In those cases where an attorney is determined by the BCPA to be necessary based upon the BPT Form 1083, Attorney Determination, the BCPA will notify the BPT of the need for attorney representation at the hearing. The BCPA will complete the revocation documents, requesting the case be scheduled for a hearing,

and deliver the original revocation packet to the RU for processing and scheduling of the hearing. The parolee has the option of accepting the Screening Offer, provided the attorney notifies the RU at least 10 calendar days prior to the scheduled hearing date. A decision to accept the Screening Offer shall be recorded by the attorney and inmate on a BPT Form 1104(b). Both the attorney and inmate must sign the BPT Form 1104(b).

- l)* When an attorney is assigned as a result of the BPT Form 1083, the attorney will deliver the BPT Form 1104(b) to the RHC. The RHC will forward the form to the Screening Calendar for completion of a new BPT Form 1104 by a DC. The DC will complete and return the form to the RHC on the same date.

5. REVOCATION HEARING

Prior to the Revocation Hearing, the DHA shall be responsible for the following:

- a)* Ensure the hearing packet is complete.
- b)* Ensure that accommodations have been arranged for disabled parolees in order to ensure they are able to participate in the parole proceeding.
- c)* “Clerk” the Revocation Hearing.

XII. GRIEVANCE PROCEDURES

Any inmate’s/parolee’s request for accommodation via the BPT Form 1073 may be grieved by filing a BPT Form 1074, Request for Reasonable Accommodation – Grievance Process. *These grievances shall be decided prior to a scheduled hearing.*

The C&PR/RC CC-III shall maintain a log of all BPT Forms 1074 received indicating name of inmate/parolee, CDC number, date received, the grievance issue, date(s) faxed to the BPT ADA Coordinator/Chief Deputy Commissioner, date(s) returned from the BPT ADA Coordinator/Chief Deputy Commissioner, and the decision(s) rendered for all BPT Forms 1074 filed at an institution.

A. REVOCATION AND REVOCATION EXTENSION PROCESS

There are two levels of review and disposition:

First Level Review: BPT ADA Coordinator

Second Level Review: Chief Deputy Commissioner

1. FIRST LEVEL REVIEW: BPT ADA COORDINATOR

- a)* During the due process review, the BCPA will review the BPT Form 1073 with the inmate/parolee and explain the grievance process via the BPT Form 1074. The BPT Form 1073 review will be documented on a BPT Form 1073(b), Due Process/ADA Review.

- b)* If the inmate/parolee is not satisfied with the accommodation provided, or if the BCPA denies the request for reasonable accommodation, the BCPA will provide the inmate/parolee with a BPT Form 1074. The inmate/parolee shall complete Section A.
- c)* If the inmate/parolee submits the BPT Form 1074 to the BCPA during the Due Process Review, the BCPA shall ensure that the BPT Form 1074 is thoroughly completed and faxed to the BPT ADA Coordinator at (916) 324-7603 along with the BPT Form 1073(b). In addition, the BCPA shall provide assistance, if needed, for completion of the form. Any relevant supporting document not previously provided with the BPT Form 1073 shall also be faxed by the BCPA.
- d)* If the inmate/parolee wishes to file the BPT Form 1074 after the BCPA has completed the due process review, the BPT Form 1074 may be submitted to a CC-I/DHA or BCPA, or mailed directly to: Board of Prison Terms, Attention: BPT ADACU, 1515 K Street, Suite 600, Sacramento, CA 95814. The BCPA is the appropriate staff member to provide assistance in county facilities. If the BPT Form 1074 is filed at an institution, the staff member receiving the grievance shall immediately forward it to the C&PR/RC CC-III. The C&PR/RC CC-III shall ensure that staff assistance is provided, if necessary, to complete the BPT Form 1074 and shall be responsible for faxing the grievance to the BPT ADA Coordinator within 24 hours of receipt. The C&PR/RC CC-III will not need to fax the BPT Form 1073 and BPT Form 1073(b) since these documents will already be on file at the BPT. The inmate/parolee must submit the BPT Form 1074 within five days from the date the request was denied (date of BPT Due Process Review).
- e)* The BPT ADA Coordinator will ensure that the database is updated upon receipt of the BPT Form 1073, BPT Form 1073(b), BPT Form 1074, and any other relevant documents.
- f)* The BPT ADA Coordinator will review the BPT forms along with all relevant documentation (e.g., CDC Form 1845, CDC Form 128C series, etc.) if available, to either verify or refute the existence of an ADA defined disability.
- g)* The BPT ADA Coordinator will review the parolee's request for accommodation and determine whether the prisoner/parolee is a qualified person with a disability as defined under ADA. The BPT ADA Coordinator will carefully consider whether the request for accommodation is necessary for the prisoner/parolee to overcome any barriers for effective communication and/or equal access to any parole proceeding.
- h)* The BPT ADA Coordinator will document the decision to Grant, Grant with Changes, or Deny the request on Section B of the BPT Form 1074. In deciding what accommodation to provide, primary consideration shall be given to the method requested by the inmate/parolee.
- i)* A decision to deny a request for reasonable accommodation may be made if there is no documentation to verify the disability.

- j)* The BPT Form 1074 shall be returned via fax to the C&PR/RC CC-III/RHC within five working days from date the BPT received the BPT Form 1074.
- k)* If the documentation indicates a mobility impairment that would require an accessible facility, the BPT ADA Coordinator must ensure that the parole proceedings are held in an accessible facility.
- l)* The BPT ADA Coordinator will coordinate the accommodation(s) with the C&PR/CC-I, DHA, or BCPA.
- m)* The C&PR/RC CC-III/RHC will ensure that the BPT Form 1074 is delivered to the inmate/parolee via institutional mail/regular mail. However, if the inmate/parolee has been identified with a specific need for assistance with effective communication, the CC-I/DHA will be required to deliver and effectively communicate the BPT ADA Coordinator's decision to the inmate/parolee.
- n)* If the inmate/parolee is not satisfied with the BPT ADA Coordinator's decision, the inmate/parolee may seek review of that decision by completing Section C of the BPT Form 1074 and submitting it to the BPT Chief Deputy Commissioner for the second level review and disposition. The BPT Form 1074 may be submitted to a CC-I/DHA or mailed directly to: Board of Prison Terms, Attention: BPT ADACU, 1515 K Street, Suite 600, Sacramento, CA 95814.

2. SECOND LEVEL REVIEW: CHIEF DEPUTY COMMISSIONER

- a)* Upon receipt of the BPT Form 1074 and any supporting documents, if necessary, the Chief Deputy Commissioner will ensure that the information from the BPT Form 1074 is entered into the database for tracking purposes.
- b)* The Chief Deputy Commissioner may deny, without review, any grievance received less than five days prior to the hearing.
- c)* The Chief Deputy Commissioner will review all pertinent documents and document his/her decision in Section D of the BPT Form 1074 prior to the hearing.
- d)* The BPT Form 1074 shall be returned via fax to the C&PR/RC CC-III/RHC within five working days from date the BPT received the BPT Form 1074, or the date of the parole proceedings, whichever comes first.
- e)* The C&PR/RC CC-III/RHC will coordinate providing the approved accommodation with the BPT ADA Coordinator, if applicable.
- f)* The C&PR/RC CC-III/RHC will ensure that the BPT Chief Deputy Commissioner's decision is delivered and effectively communicated to all inmates/parolees identified with a specific need for assistance with effective communication, and inform the inmate/parolee that the grievance process via the BPT Form 1074 has been exhausted.

B. LIFE INMATE, MDO, AND SVP PAROLE PROCEEDINGS

The decision to grant or deny an inmate's request for a reasonable accommodation via the BPT Form 1073 will be rendered by the BPT ADA Coordinator. For this reason, if an inmate wishes to file a grievance, the grievance will bypass the first level of review.

I. SECOND LEVEL REVIEW: CHIEF DEPUTY COMMISSIONER

- a)* The CC-I will provide the BPT Form 1073 to the inmate using effective communication, at the beginning of the Service of Rights and notice of a hearing, and explain the grievance process via the BPT Form 1074. The inmate will be given the opportunity to request a reasonable accommodation. The C&PR/RC CC-III shall fax the BPT Form 1073 requesting an accommodation along with supporting documents to the BPT ADA Coordinator at (916) 324-7603.
- b)* Upon receipt of the BPT Form 1073 along with supporting documents, the BPT ADA Coordinator will review and document the decision to Grant, Grant with Changes, or Deny the request on a BPT Form 1073(a). The completed BPT Form 1073(a) and relevant documents shall be returned to the C&PR/RC CC-III for action within five working days from date the BPT Form 1073 was received.
- c)* The C&PR/RC CC-III will ensure that the BPT ADA Coordinator's decision is delivered and effectively communicated to all inmates identified with a specific need for assistance with effective communication by the CC-I.
- d)* If the inmate is not satisfied with the BPT ADA Coordinator's decision, the CC-I will provide the inmate with a BPT Form 1074 with Sections A and B marked "bypassed." The inmate shall complete Section C of the BPT Form 1074. The CC-I shall immediately forward the BPT Form 1074 to the C&PR/RC CC-III. The C&PR/RC CC-III shall be responsible for faxing the grievance to the BPT ADA Chief Deputy Commissioner within 24 hours of receipt. The C&PR/RC CC-III will not need to fax the BPT Form 1073 and BPT Form 1073(a) since these documents will already be on file at the BPT.
- e)* Upon receipt of the BPT Form 1074 and any relevant supporting documents, the Chief Deputy Commissioner will ensure that the information from the BPT Form 1074 is entered into the database for tracking purposes.
- f)* The Chief Deputy Commissioner will review all pertinent documents and complete Section D of the BPT Form 1074 and fax it to the C&PR/RC CC-III within five working days from date the BPT received the BPT Form 1074, or the date of the parole proceedings, whichever comes first.
- g)* The C&PR/RC CC-III will coordinate with the BPT ADA Coordinator in providing the approved accommodation, if applicable.
- h)* The C&PR/RC CC-III will ensure that the BPT Chief Deputy Commissioner's decision is delivered and effectively communicated to all inmates identified with a

specific need for assistance with effective communication, and inform the inmate that the grievance process via the BPT Form 1074 has been exhausted.

XIII. APPEALS PROCEDURES

- A.** Any inmate/parolee under the BPT's jurisdiction may appeal any decision of the BPT, which affects that person, except a decision to schedule a hearing or the denial of an appeal by the second level reviewers.
- B.** All administrative appeals alleging violations of the ADA or its implementing regulations shall be treated as ADA grievances (refer to Section XII, for grievance procedures to be used if a grievance is filed prior to a parole proceeding), and any successive appeal on the non-ADA merits of a decision shall not be deemed barred due to the filing of the ADA-related grievance or grievances.
- C.** All ADA-related appeals filed following a parole proceeding are to be decided within 30 days of the BPT's receipt of the appeal form
 - 1.** The appeal shall be submitted using the BPT Form 1040. The BPT Form 1073, and the BPT Form 1074, if used, must be attached to the BPT Form 1040.
 - 2.** The inmate's appeal shall be forwarded to the BPT's Office of Policy and Appeals for review and a response.
 - 3.** The Office of Policy and Appeals shall respond to the appeal within 30 days of receipt.
- D.** Inmates and parolees with disabilities who cannot use or understand the appeal process or prepare an appeal themselves by reason of their disability shall be provided with effective assistance (staff, attorney, or other accommodation) in preparing a BPT appeal.
- E.** If an inmate/parolee files an ADA issue on a BPT form and the issue is not under the jurisdiction of the BPT, the BPT is to forward the appeal to the appropriate institution or parole region. The Appeals Coordinator will ensure the appeal is attached to the proper form. The appeal shall then be answered accordingly in a timely manner. **Under no circumstances shall an ADA appeal be returned to an inmate/parolee because it is not on the correct form.**

XIV. TRAINING

The CDC will provide training to institutional classification and parole staff on an annual basis. This training shall include all relevant sections of the Remedial Plan for classification and parole.

GLOSSARY

ACDC	Associate Chief Deputy Commissioner
ADA	Americans with Disabilities Act
ADACU	Americans with Disabilities Act Compliance Unit
AOR	Agent of Record
ASH	Atascadero State Hospital
BCPA	Board Coordinating Parole Agent
BPT	Board of Prison Terms
C&PR	Classification and Parole Representative
CCCMS	Correctional Clinical Case Management System
CC-I	Correctional Counselor I
CCRM	Correctional Case Records Manager
CDC	California Department of Corrections
C-File	Central File
CRN	Case Records North
CRS	Case Records South
DC	Deputy Commissioner
DDP	Developmental Disability Program
DHA	District Hearing Agent
DMH	Department of Mental Health
DPP	Disability Placement Program
EOP	Enhanced Outpatient Program
GPL	Grade Point Level
HCSD	Health Care Services Division
MDO	Mentally Disordered Offender
MHCB	Mental Health Crisis Bed
MHSDS	Mental Health Services Delivery System
NIC	Not in Custody
P&CSD	Parole and Community Services Division
PC	Penal Code
PSH	Patton State Hospital
PV-RTC	Parole Violator Return to Custody
RC	Reception Center
RC CC-III	Reception Center Correctional Counselor III
RHC	Regional Hearing Coordinator
RSTS	Revocation Scheduling and Tracking System
RU	Revocation Unit
RVR	Rules Violation Report
SVP	Sexually Violent Predator
TABE	Test of Adult Basic Education
TDD	Telecommunications Device for the Deaf
US	Unit Supervisor

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